

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

UNITED STATES OF AMERICA,) CRIMINAL CASE NO.  
Plaintiff,) RDB-20-139  
vs.)  
ANDRE RICARDO BRISCOE,) JURY TRIAL DAY 11  
Defendant.) CLOSING ARGUMENTS  
JURY INSTRUCTIONS

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BEFORE THE HONORABLE RICHARD D. BENNETT  
UNITED STATES DISTRICT JUDGE  
TUESDAY, JUNE 7, 2022  
BALTIMORE, MARYLAND

For the Plaintiff:  
Dana Brusca, AUSA

Paul Budlow, AUSA

For the Defendant:  
Teresa Whalen, Esq.

William Purpura, Esq.

Also Present: Javon Weaver, Special Agent ATF

Jeffrey Kelly, Special Agent, FBI

Andrew Murray, Paralegal

Robert Cadle, Paralegal

(Computer-aided transcription of stenotype notes.)

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Reported by:

Melissa L. Clark, RPR  
Federal Official Court Reporter  
101 W. Lombard Street, 4th Floor  
Baltimore, Maryland 21201

## P R O C E E D I N G S

(9:41 a.m.)

**THE COURT:** We are ready, I believe, to proceed with closing arguments in the case.

The Government ready?

**MS. BRUSCA:** Yes, Your Honor.

**THE COURT:** The Defense ready?

**MS. WHALEN:** Yes, Your Honor.

**THE COURT:** All right. With that, good morning, Mr. Briscoe. Good morning to everyone. You all may be seated.

Obviously, masks will remain worn by everyone in the gallery there, unless you have a speaking role of some sort, if you'll keep masks on consistent with the standing orders of this Court.

And with that, we'll bring in the jury, Mr. Gurevich. They did get their menus for lunch; correct?

**THE CLERK:** Yes, Your Honor.

All rise for the jury.

(Jury enters courtroom 9:45 a.m.)

**THE COURT:** Good morning, everyone. I trust you all got your lunch menus. Get some of your tax dollars back this morning.

The process will be, we're going to have closing argument by the Government, then we'll have closing argument by the

1 Defense, and then because the Government bears the burden of  
2 proof at all time, we then will have rebuttal argument by the  
3 Government, and then I will charge you and give you  
4 instructions, and we will have breaks throughout the day on  
5 that. I think we'll probably wind up having to do some of it  
6 after lunch as well, we'll just see. So we're not in any rush  
7 here. So with that, we are ready to proceed, and first we'll  
8 hear from the Government in its closing argument.

9 Ms. Brusca, good morning.

10 **MS. BRUSCA:** Good morning. Thank you, Your Honor.

11 Ladies and gentlemen, the facts of this case are tragic.  
12 For just 80 grams of dope, the Defendant, Andre Briscoe, he  
13 walked on the beautiful day of May 27, 2015, he walked  
14 .3 miles from Kiara Haynes' apartment to 103 Upmanor Road, the  
15 home of Jennifer Jeffrey and her son, Tone. He entered the  
16 house. He walked into the kitchen where Jennifer is at the  
17 table, and he shot her three times, in the back of the wrist,  
18 shoulder, the chest, and then finally to make sure she was  
19 dead, in the back of her head.

20 He made the cowardly walk upstairs where Jennifer's son  
21 was sitting in his mother's bed, home sick from school, eating  
22 breakfast and watching cartoons. He shot that little boy  
23 through the neck, in the mouth, and then to make sure he was  
24 dead, he took this gun and he put it and he pressed it into  
25 that little boy's head, and he took his life.

1           He thought he left no witnesses. He was wrong. In the  
2 Defendant's interactions in the days before, of, and after the  
3 murder with family, friends, even strangers like Martin  
4 DaShields, he left a trail of evidence, a trail of witnesses  
5 that led to only one inevitable conclusion; he did it. He did  
6 do it. And no matter how quickly he tried to flee from  
7 Baltimore to Cambridge the night of the murders, and no matter  
8 how hard he tried to hide his guilt from the police and from  
9 himself, it bubbled up again and again and again, and it  
10 pointed to him and only him.

11           Now, ladies and gentlemen, you have heard a lot of  
12 evidence in this case: Witness testimony, phone records,  
13 physical evidence, social media records, jail calls, recorded  
14 statements. There was a lot. We have tried our best to  
15 present it to you in order. We haven't always been  
16 successful.

17           So what I'm going to do today, over the next hour or so  
18 is to take you back to the beginning and to put that evidence  
19 in order. We are going to start back in February of 2015 when  
20 the Defendant met Kiara Haynes. We're going to move forward  
21 to the drug dealing among Tony, the Defendant, Jennifer, CJ,  
22 and others, and then move almost hour by hour through the days  
23 before and of the murders.

24           Once we've reviewed that evidence, ladies and gentlemen,  
25 you will be sure beyond any doubt that the Defendant is guilty

1 of the crimes charged, and I want to take a moment and go  
2 through those crimes.

3 The Defendant is charged with six separate offenses,  
4 each called a count or a charge. The first count, conspiracy  
5 to distribute heroin, covers the sad, but all too familiar  
6 reason for the crime, drugs. It covers the agreement between  
7 Defendant and others to deal heroin. The rest of the counts  
8 really deal with the day of the murder. They break each  
9 portion of the crime the Defendant committed when he entered  
10 Jeffrey's home, stole her heroin so he could sell it and  
11 killed her and Tone.

12 There will be many instructions given to you by Judge  
13 Bennett, and you should follow those instructions when you go  
14 back and deliberate. But as tragic as the details of these  
15 crimes are, they're also simple. It's drug dealing, robbery,  
16 and murder.

17 Now, a crime is basically made up of elements, a bad  
18 action and a particular state of mind. And if you find that  
19 the Defendant committed that act, that he did so  
20 intentionally, without mistake, then you should find he's  
21 guilty of those crimes.

22 Count 1 has three elements, conspiracy to distribute  
23 heroin. The act in the case of conspiracy is an agreement.  
24 That's all he had to do to commit that crime, agree knowingly  
25 and voluntarily to join that conspiracy and to distribute 100

1        grams or more of heroin.

2                Counts 4 and 5 are the murder counts. They're not  
3        called murder because we're lawyers, so why use one word when  
4        you can use 15, but what it says is, the Defendant used a gun  
5        to kill someone. In this case, two people, Jennifer and Tone,  
6        and he did so in the course of committing another crime,  
7        robbery or drug trafficking.

8                Drug trafficking in this case can be either the  
9        conspiracy or possession of heroin on the day of the murders.  
10       Robbery is just what it sounds like, the taking of property  
11       from someone by force, against the victims' will. That the  
12       Defendant did so knowingly and that he used, possessed, and  
13       carried a firearm, which resulted in the victims' death.

14               Count 3 is just a small part of the murder crime. It  
15       charges the Defendant with possessing a gun and ammunition  
16       knowingly, unlawfully. There are four elements, but three and  
17       four, that the gun moved in interstate commerce, and that the  
18       Defendant was previously convicted of a felony, a crime  
19       punishable by more than 12 months before May 27, 2015, are not  
20       in dispute. The Defendant has agreed to those.

21               So all you have to decide is whether on or about May 27,  
22       2015, the Defendant possessed the gun and ammunition that  
23       killed Jennifer and Tone and whether he did so knowingly.

24               Likewise, Count 2, possession with the intent to  
25       distribute heroin. The elements are that the Defendant

1 possessed heroin, or tried to knowingly, on May 27, 2015, the  
2 day of the robbery and murders.

3 And finally, Count 6 charges the Defendant killed a  
4 witness, that he did so intentionally to prevent that witness  
5 here, Tone, from talking to Federal agents.

6 As I said at the outset, ladies and gentlemen, these  
7 crimes are not complicated. And if you find that the  
8 Defendant agreed to sell heroin with Jennifer his cousins, and  
9 others, if you find that he shot Jennifer, in order to take  
10 and sell the drugs she was holding and that he shot Tone in  
11 order to prevent him from identifying his mother's killer,  
12 then you should find he is guilty on all counts. So with  
13 that, let's turn to the evidence.

14 The Defendant met Kiara Haynes in February of 2015 at a  
15 Valentine's Day party. We know it because she said so. We  
16 know it because the Defendant said so, and we know it because  
17 it's on their Facebook records. Kiara Haynes posted on  
18 February 15, 2015, "Having a fun night with family and  
19 meeting, quote, a new cousin last night, Andre," the  
20 Defendant.

21 Not long thereafter, the Defendant moved to Cambridge,  
22 and Jennifer was about to get married. So Kiara Haynes, who  
23 wanted to see her cousin who had moved, took Jennifer down to  
24 Cambridge to meet her family, and for something of a  
25 bachelorette. Pretty soon, there was a foursome, Jennifer and

1 Tony Harris, Kiara and the Defendant, and they hung out  
2 together. They hung out in Cambridge. They hung out in  
3 Baltimore. They hung out at Jen's house.

4 You heard the testimony of CJ Williams, Jennifer's  
5 roommate. He said he would walk in and see the four of them,  
6 and he thought it was, like, a double dating kind of thing,  
7 that's what it was, and then something happened. Tony was  
8 having problems getting heroin. He and Andre and their  
9 cousins Wane Briscoe, Jr., Terrill Harris, Jr., also known as  
10 Fatman, and George Briscoe were, at the time, in Cambridge all  
11 dealing heroin, all out of their grandmother's house at 706  
12 Hughlett Street.

13 You heard from Wane Briscoe. He told you that customers  
14 would drive up to the house. They'd drive up. They'd walk  
15 up. They'd be on their bicycles. One of the cousins who  
16 tipped them off would sell heroin to them.

17 Wane said when she ran out of drugs, they would re-up,  
18 often they'd bring new drugs back to 706 Hughlett where they  
19 broke them down, bagged them up. And what did he do when he  
20 was there doing that with all of his cousins, he talked to  
21 them, to the family, they talked about everything, including  
22 drugs.

23 At some point, Tony had trouble getting drugs, something  
24 wasn't right. CJ Williams told you that Jennifer asked him  
25 for a favor. Can you help me out? Can you connect Tony with



1 somebody?

2 CJ Williams testified he didn't want to do it at first,  
3 but Jen pestered him for a week. Finally he relented. All  
4 right, he testified. Let's cook up that liquid Percocet you  
5 got, we'll fool those guys down in Cambridge. Meanwhile,  
6 Kevin Wilder testified that the Defendant told him, Tony got a  
7 dope shop down in Cambridge. I'm going to connect Tony and  
8 CJ. She was excited. She was putting to the two people in  
9 her life.

10 In April of 2015, Wane Briscoe testified that he saw a  
11 stocky guy in a Muslim cap talking to the Defendant in  
12 Cambridge. The Defendant told Wane, this guy can get heroin.  
13 Why don't you guys join up with us, let CJ be your supplier.  
14 And Tonya Harris told you Jennifer was the Defendant's  
15 supplier.

16 You heard the testimony, and the cell site confirms it.  
17 Jennifer was traveling to Cambridge every few days. The  
18 Defendant was traveling to Baltimore every few days. The  
19 Defendant told Baltimore police, when Jennifer came up here,  
20 she stayed with me sometimes. And when I went there, I stayed  
21 with her sometimes. I also stayed at Kiara or my girl's  
22 house. Once a week he said he saw her.

23 He later told Special Agent Javon Weaver in 2020 that he  
24 and Tony, we were getting work, heroin, from Jennifer. The  
25 Defendant said he got about ten grams a week, that Tony

1 handled the money.

2 Tony handled the drugs and he would break off a piece for  
3 the Defendant or sell him some outright. The Defendant had no  
4 problem talking about a relative who he had committed a crime  
5 with.

6 Then things changed. May 12th, 2015, CJ Williams is  
7 arrested, and who is left holding the bag? Literally, it's  
8 Jennifer. She's the only one running around trying to get  
9 bail money for CJ, trying to get his car title, trying to make  
10 sure he's going to get out of jail. And CJ says to her, on a  
11 jail call that's recorded that I'm going to play for you in a  
12 minute, on May 23rd, four days before the murders, go to the  
13 studio and get the 80, leave the 10.

14 CJ told you what that meant. It was the 90 grams of  
15 liquid Percocet that he had cooked up. He told Jen to get the  
16 80 and he told her who they were for. Tell Fatboy and them.  
17 He told you, Fatboy was Tony Harris. Tell Fatboy and them the  
18 tickets, the price has gone up, from \$85 a gram to 90.  
19 Jennifer asked, how can you do that? You can't just raise the  
20 price. He says, it's some different stuff, but he told you on  
21 the stand that was a lie. He needed money for bail. The  
22 price went up.

23 (Recording played but not reported.)

24 **MS. BRUSCA:** You will have this exhibit back in the  
25 deliberation room. You can keep listening if you want. That

1 phone call is clear. CJ told you about it and it's coded, but  
2 you know what it means. Get the 80, get it to Fatboy and  
3 them, the price is 90. That's what it is.

4 Two days later, the Defendant comes to Baltimore. It's  
5 Monday, Memorial Day, May 26, two days before the murders. He  
6 comes and he stays with Kiara. How do you know? Well, she  
7 put it on Facebook. The Defendant messaged her, call my phone  
8 ASAP or call my grandma's phone. He messages her again, call  
9 back. Kiara says, "I called both phones. You call me."  
10 Finally at 12:35 p.m. Eastern Standard Time, the Defendant  
11 says, "I'm on my way." And the cell phone, the cell site  
12 confirms he did get to Baltimore that day, at 6:45 p.m. on the  
13 bottom left there, May 25, 2015, at 6:45 on Monday, May 25th,  
14 the Defendant is in Baltimore with his phone.

15 Now, it's May 26th. I can see from a cell site he stays  
16 overnight from 6:43 on the 25th until 10:39 the next morning,  
17 Tuesday, May 26th. He spends the day in Baltimore with Kiara  
18 at Tiffany Jackson's house in the Perkins Projects, and he  
19 talked to Jennifer, he talked to CJ, and he talked to Wane.

20 Once again, how do we know? We know first because the  
21 cell site puts him there. You can see he travels from West  
22 Baltimore to East Baltimore at about noon. He does something  
23 downtown around 2:30, and then for the rest of the day, from  
24 3:39 until 9:37, the Defendant is in the area of Tiffany  
25 Jackson's. And look who he's talking to. The blue is his

1       cousin, Wane Briscoe, and the red and brown is Jennifer.

2               We also know because Jennifer told CJ, again, on a  
3       recorded jail call. CJ called Jennifer's flip phone, that  
4       (410) 908-8308 number. Jennifer tells CJ, "Poo's in Perkins  
5       Projects." CJ is confused, "Why is he down there? Who is he  
6       visiting?" He tells her to call his brother, and the three of  
7       them, CJ, CJ's brother, and Jennifer discuss all of the  
8       details that confirm for you that the Defendant is at Tiffany  
9       Jackson's house. She's in that house in court, Herring Court,  
10      that's her address, by the dumpster, with the poles and the  
11      handicap ramp -- the handicap ramp.

12             Tiffany Jackson told you her house, kind of, looked like  
13      it was on the end. It was right near the dumpsters and had a  
14      handicap ramp.

15             About a half hour later, CJ calls Jen again, and this  
16      time they call the Defendant. They want to know why he's down  
17      there. It's recorded. First CJ calls Jennifer. That top  
18      record is the call log on 5/26 at 6:41 p.m. from CJ in jail to  
19      Jennifer's flip phone (401) 908-8303. That's Exhibit 233.

20             Then Jennifer calls the Defendant. These are his phone  
21      records at the bottom. They show that at 6:41:52 seconds, the  
22      Defendant had an incoming call from that same flip phone  
23      (410) 908-8303. We know where the Defendant was at the time  
24      of this call; ladies and gentlemen, his cell site shows it.  
25      We know it because he says it on the phone. I'm going to play

1 a portion of that call for you now.

2 (Recording played but not reported.)

3 **MS. BRUSCA:** Ladies and gentlemen, a lot is  
4 happening on this call, right? CJ says, "I need guys to do  
5 what they do because I'm trying to get up out of here." He's  
6 trying to raise money for bail. "I need guys to do what they  
7 do." That's not hard to understand. He wants the Defendant  
8 to sell drugs and do what you do, get some money. Not just  
9 any drugs, the 80 grams, the 80 grams he told Jennifer to get  
10 for Tony and the Defendant.

11 What does the Defendant say back? He says, "We're going  
12 to take care of it. We got leverage down there." You've  
13 heard from all kinds of witnesses, Wane, Terrill Harris, the  
14 cost of heroin in Cambridge is twice what it is in Baltimore.  
15 "We got leverage down there," that price increase, 85 to 90,  
16 it ain't too much. We'll take care of it.

17 Now, as soon as he hangs up the phone -- as soon as he  
18 hangs up the phone that call with CJ and Jennifer at 6:41 is  
19 about four minutes long. At 6:46, the Defendant calls his  
20 cousin, Wane Briscoe. Why? He's already told you, the  
21 Defendant needed a ride. He was going to take care of it. He  
22 was going to take care of it by taking the drugs, and he  
23 wanted to be sure he had a ride back to Cambridge afterwards.  
24 He hangs up with Jennifer and he calls Wane.

25 Later that night Kiara called her nephews, Tariek and

1 Tarrell Powell. This is the night before the murders. Kiara  
2 called her nephews and she asked to run a gun, a bitch for her  
3 fam, her blood. She told you who that was. She said it was  
4 the Defendant. She explained the business. She said a  
5 female, Jennifer's people, got locked up, that's CJ, and she's  
6 sitting on 100 of them, and she wants people to move it.

7 Ladies and gentlemen, that is exactly what the Defendant  
8 told Special Agent Weaver in 2020. Jennifer wanted us to move  
9 some drugs. This is the night before the murder. The  
10 Defendant knows this, Kiara knows it, and they're getting a  
11 gun so that they can just take it.

12 And at the end Kiara says, we need the gun right now,  
13 tonight, and she explained she's about to get in the car.

14 (Recording played but not recorded.)

15 **MS. BRUSCA:** Ladies and gentlemen, Kiara joined the  
16 call with Tariel and Tarrell Powell at 9:31. About four  
17 minutes later, the call ends, and about three minutes after  
18 that, the Defendant's cell site starts moving. Why? Because  
19 he's about to get in that movement, in that car with Martin  
20 DaShields and with Kiara.

21 The Defendant's last call in the area of Tiffany  
22 Jackson's is at 9:37, Tuesday, May 26, 2015, the night before  
23 the murders. And by 9:44, it's moved west, all the way over  
24 to the area of Edmondson and Warwick where both Martin  
25 DaShields and Kiara Haynes told you they stopped to get a gun,

1 to meet Tarrell Powell and to get a gun. And that tower, the  
2 1011 and 1012 tower, and the 1043 tower, in all of May, the  
3 Defendant's phone never hits off of those towers. He had no  
4 reason to be in that area, except to get a gun.

5 So his cell site moved. How else do we know? The  
6 Defendant told you, this is exactly what he did on the night  
7 of May 26, 2015 he told the Baltimore Police Department, "I  
8 was with Ki, Kiara at Tiffany's house in Perkins until late at  
9 night. Kiara didn't want to go home alone, so I dropped her  
10 off at her house." How do you drop someone off? Ladies and  
11 gentlemen, you go in a car together. And then the Defendant  
12 said, he went to Jennifer's around midnight and spent the  
13 night.

14 We also know because of who's using the phone. Look at  
15 who is using the phone between 8:41 and 9:38 p.m. It's the  
16 Defendant texting Jennifer Jeffrey, that call, we just said,  
17 that very last call, 9:37 in the area of Tiffany Jackson's  
18 that the Defendant made. At 9:38, the next minute, he sends  
19 Jennifer a text. We don't have to guess what it says, we  
20 know. We know, because at 9:45 Jennifer is on the phone once  
21 again with CJ. She says, "No. Why do you want to stop past  
22 and holler at me? What for? I don't feel like this shit, yo.  
23 CJ asks her, "Who are you talking to? She says, "Yo, Poo. He  
24 wants to come up here, and I'm like, I'm sick." He said,  
25 "Okay. I'm still going to stop past and check on you."

1 And the Defendant did stop past. He said it. We know  
2 it. It's not disputed. He went to Jennifer's house that  
3 night. He told you, Kiara told you. Her niece, Brianna  
4 Street saw him there, told you. His cell site puts him there,  
5 he went.

6 Now, what happened when the Defendant was at Jennifer  
7 Jeffrey's house. Well, Brianna Street told you that before he  
8 came over, Jennifer told Brianna to put this up. Jennifer  
9 tossed her a bag. It was black, a plastic corner store bag.  
10 Brianna didn't open it. She knew what was in it. She said,  
11 "I know it wasn't no good," and she puts the bag in the top  
12 drawer of her pink dresser.

13 Later, Brianna heard the Defendant downstairs. Jennifer  
14 came up and asked for the bag. She took it downstairs. She  
15 came back a few minutes later and threw it back at Brianna who  
16 let it drop to the floor. Brianna said the next morning when  
17 she got up, she picked up the bag, put it back in the drawer  
18 and shut it.

19 Now, why is that relevant? Ladies and gentlemen, the  
20 Defendant saw the drugs. He could hear Jennifer and Brianna  
21 talking when she went to get the drugs and when she went to  
22 give them back, he knew where they were. You saw the photos  
23 from 103 Upmanor Road. It wasn't ransacked. It didn't have  
24 to be. The Defendant knew what room the drugs were in, in  
25 that room, Brianna's room, it was disturbed. She said, I made



1 my bed. I didn't leave that bowl there. I closed my drawers.  
2 There was no bag, no drugs that next day.

3 So after this exchange, Kiara comes banging on the door.  
4 It's 5:00 a.m. Jennifer sends Brianna downstairs. You deal  
5 with it. I don't want her to see me. Brianna yells through  
6 the door. She's saying, "I have to work tomorrow. Come on,  
7 Kiara, go home. This is crazy. There are kids in the house."  
8 Jennifer pulled out her little gun and she said if Kiara came  
9 back, she would shoot her.

10 Later that morning, the Defendant walked back to Kiara's.  
11 His first phone call was longer than 30 seconds, to Kiara at  
12 was 7:23. It lasts about six or seven minutes. And Kiara  
13 told you he made the call while he was walking back to the  
14 apartment.

15 Now it's the morning of the murders. The Defendant is  
16 back at Kiara's house. We know because we saw the cell site,  
17 he's there. His phone stays in that area from 7:23 a.m. until  
18 1:06 p.m. We also know that the Defendant left Kiara's house,  
19 we heard it. We heard it when Kiara was on jail calls and she  
20 said, "Poo, get me some cigarettes." He left the house to get  
21 some cigarettes. We also know the Defendant left the house  
22 because Kiara tried to call him three times, 10:28, 10:29,  
23 10:30. The Defendant's phone is on. There is cell sites.  
24 They're in rapid succession. They short. They don't look  
25 like they're even answered. She wouldn't call the Defendant

1 if she was with him.

2 So now we get to 11:41 a.m. The Defendant's phone is  
3 still in the area of Kiara's apartment. He leaves a second  
4 time. He goes back to Jennifer's house, and he kills her and  
5 Tone. That 11:41 a.m. call was the last call that Jennifer  
6 ever made. The Defendant's phone had no activity from 11:43  
7 a.m. to 12:58 p.m. The Defendant turned his phone off or it  
8 wasn't connected to the network. We know because Kiara tried  
9 to call him at 11:57 a.m. There is no cell site for the call,  
10 it didn't connect.

11 Now, the Defendant argued in their opening, the  
12 Government assumes that a phone call at 11:41 from Jennifer  
13 Jeffrey's phone to Mr. Briscoe, they assume it's the last  
14 call, and they assume that that was Mr. Briscoe and Ms.  
15 Jeffrey's phone, but there is no proof of that.

16 Ladies and gentlemen, that's plain wrong. We showed you  
17 Jennifer Jeffrey's cell phone records. Not a single one of  
18 the calls after 11:41 a.m. had cell site. Not a single one  
19 connects to the network. We showed you the records for her  
20 flip phone. The last outgoing call was 11:40 a.m., a minute  
21 before this one. Who is it to? Tony Harris. We checked the  
22 phone, every other call was a missed call. 11:41 a.m. was the  
23 last call.

24 Now, we also know that it was the Defendant and Jennifer  
25 who talked. It's frankly ridiculous to think it was anybody

1 else. The very first person who the Defendant calls on his  
2 phone at 12:58 p.m. is Wane Briscoe, his cousin.

3 Now, you have Wane Briscoe's phone records. It's  
4 Exhibit 10.3. There are zero calls between Kiara Haynes and  
5 Wane Briscoe before June 2015 before the time of the murders.  
6 It's the Defendant who is calling Wane Briscoe. It's the  
7 Defendant with his phone, just like it has been every other  
8 time in the past 36 hours when you've seen his phone. You've  
9 seen his cell site, and you've heard and seen the evidence  
10 that he was with his phone.

11 We also know that this is the time when Jennifer and Tone  
12 were killed. You heard the testimony of Dr. Dean. She said  
13 that the victims were killed between 12 and 36 hours before  
14 their bodies were examined at 1:00 p.m. on May 28th, 2015 --  
15 that's the pink area, from 1:00 a.m. on May 27th, 2015, to  
16 1:00 a.m., on May 28, 2015, but we know Jennifer's last  
17 Facebook activity ever was at 11:38 a.m. that morning. Her  
18 last phone call for both of her phones is 11:41 a.m.

19 At 1:29 CJ Williams called Jennifer. He's been on the  
20 phone with her nonstop for weeks, she doesn't answer. At  
21 2 o'clock p.m., Linda Pittman knocks on the door just to see  
22 if her neighbors are okay, nobody answers.

23 Now, you heard defense counsel, he can bang much louder  
24 than I can, but they didn't hear this (makes sound), ladies  
25 and gentlemen, six shots from a .45 are going to make the

1 sound they make, no matter when they're fired.

2 You've heard the evidence from Detective Lewis. There  
3 was not a single call to 911 anytime on May 27th, 2015, in the  
4 area of 103 Upmanor Road. It means absolutely nothing that  
5 nobody called 911, because nobody ever did. Look at the  
6 evidence that we've showed you. This is the evidence that  
7 shows you when she died.

8 After 1:06 p.m., the Defendant goes to Tiffany's house,  
9 he goes with Kiara, he goes with his phone and calls Wane, his  
10 cousin, incessantly. Now, what happens when he gets to  
11 Tiffany Jackson's house, she told you the Defendant busted the  
12 door open. It was so loud it startled her. He was hot. He  
13 was sweaty. He had a hole in his knee. He was pacing back  
14 and forth between her bedroom and the bathroom. He was  
15 mumbling, talking on the phone. He changed his clothes and he  
16 put them in a bag, and that day, out of nowhere, the Defendant  
17 told Tiffany Jackson, "That's it. I'm not coming back."

18 The Defendant also refused to answer Tiffany's questions,  
19 she asked the Defendant what was wrong. He said, "It's none  
20 of your fucking business. Everything ain't for you to know,"  
21 and she didn't know as he told her over and over and over  
22 again.

23 Ladies and gentlemen, this is important. Make no  
24 mistake, the Defendant was telling Tiffany Jackson what to  
25 say. You say you don't know anything, and she might not

1 know -- she might not have known the details of what happened,  
2 but she did know. If law enforcement, if Baltimore Police had  
3 known that within hours of the murders the Defendant ran to  
4 Tiffany Jackson's house sweaty, mumbling, changing his  
5 clothes, that would be bad for him, and so he checks in on  
6 her. Even when she changes her phone number, he sends  
7 somebody to her house. "Hey, just checking in. How's the  
8 family. Any police officers around these days? You don't  
9 know anything."

10 Now, what happens after Tiffany's house, the Defendant's  
11 relatives come to get him finally. After 52 attempted calls  
12 between Wane and the Defendant, he comes to pick him up. He  
13 comes with his Uncle Rel, Terrill Harris, Sr., and his aunt  
14 Louise Martin, Boug.

15 Terrill Harris, Sr., and Wane Briscoe told you, the  
16 Defendant had dope. He gave some to Terrill Harris, Uncle  
17 Rel, and Boug to try. The Defendant told Terrill, "When we  
18 get back to Cambridge, we're going to make some money. And  
19 when the Defendant got back to Cambridge, he did make some  
20 money. Terrill told you he was over at Hughlett Street,  
21 grandma's house, selling dime bags for \$20 for two times with  
22 leverage.

23 Now, let's pause for a minute, ladies and gentlemen.  
24 That was the evidence in Baltimore. We're going to move now  
25 to the people who lived in Cambridge and the events that

1 happened there.

2 The people in Cambridge are mostly the Defendant's  
3 family. These people are mostly familiar to you now. You've  
4 heard from no fewer than five of the Defendant's family  
5 members; his uncle, Alfred Harris, III, Uncle BooBoo, his  
6 uncle Terrill Harris, Sr., his cousin Tonya Harris, his cousin  
7 Wane Briscoe, Jr., and his cousin, Kiara Haynes.

8 Each of these witnesses told you that the Defendant  
9 admitted out of his own mouth to them that he killed the  
10 victims from this case. And Kiara and Wane told you the ways  
11 in which they had helped him. This evidence is terrible for  
12 the Defendant, five family members said he did it. And so the  
13 Defense tells you and asks you, just throw it away, don't  
14 believe it. Well, what are the reasons that the Defense has  
15 offered to not believe these witnesses.

16 Well, first, they use drugs. Their own witness said it.  
17 Methadone doesn't make you a liar. Heroin is not an  
18 anti-truth serum. It's an addiction. It's an illness. It  
19 doesn't make you lie. Well, what's another reason? These  
20 witnesses have their freedom, they got out so they didn't have  
21 to go to jail. They made it up so they could get away with  
22 it.

23 Ladies and gentlemen, Kiara is in jail. She has pled  
24 guilty. She's not free. And there is not a single shred of  
25 evidence that Tonya Harris, Terrill Harris, Al Harris knew a

1 single thing about these murders before they were committed or  
2 that they helped in any way. They didn't commit a crime.  
3 They didn't have to trade for their freedom because they  
4 didn't do anything wrong.

5 Now, what about Wane, he did pick the Defendant up  
6 knowing the crime had been committed, and he told you so. But  
7 we also know that Wane wasn't in Baltimore the day of the  
8 murders, he was somewhere else. He did not do these murders.  
9 He's not lying to protect the Defendant or himself. He's  
10 telling the truth.

11 What about Al? Well, he got money, says the Defense. He  
12 got money to testify. He got money to put the Defendant in  
13 jail. That's just simply not true. Al Harris came forward,  
14 he told Baltimore Police what he knew. Yes, he asked for help  
15 with a probation violation for a restitution, failure to pay  
16 back a victim, and he didn't get any help. He went to jail.  
17 The next time somebody approached him, in 2017, it was Special  
18 Agent Weaver. He approached him in jail. Al Harris told you  
19 Special Agent Weaver didn't promise him anything. He didn't  
20 give him anything. He didn't offer him anything. He just  
21 said, "Can you help me?" And Al Harris said yes, and he told  
22 him the exact same things that he had told Detective Lewis in  
23 2016.

24 Now, at the end of that conversation, after Al Harris had  
25 provided information, Special Agent Weaver asked him, "Will

1 you help more? Will you wear a wire and record your own  
2 nephew talking about two heinous murders?" And he agreed.  
3 And he did it. And yes, he got paid. And he got paid to  
4 collect evidence that is crucial to this case. He recorded  
5 Wane Briscoe telling you all of the things that Wane Briscoe  
6 told you in court before he knew anything about this  
7 investigation; that he picked up the Defendant after the  
8 Defendant told him that he was going to rob Jennifer; that he  
9 killed Jennifer; that he killed the little boy because he  
10 could identify him.

11 He recorded conversations with the Defendant, and in  
12 those conversations, the Defendant admitted lots of things.  
13 He admitted he was having nightmares: Nightmares that Al  
14 Harris told you about, nightmares that Wane Briscoe told you  
15 about, nightmares that Tonya Harris told you about.

16 He admitted that he knew the little boy, and that when he  
17 would come over, the little boy would play upstairs. He  
18 admitted that when he got out of jail after the search at  
19 Tonya's house, Fatman gave him money. This is exactly what  
20 all of the other witnesses said. Al Harris got that evidence.  
21 It was also because of those meetings that the Defendant sent  
22 that letter to Wane Briscoe, a letter in which he says, "Be  
23 careful. Uncle BooBoo is asking those questions about the  
24 past. Don't feed into it." We got that letter. We got  
25 Wane's testimony. That's from Al. He got money for that.



1           These are not reasons for the Defendant's family members  
2           to lie. The Defendant's family members love him, and he loves  
3           them. Terrill Harris told you how when he was sick so he  
4           wouldn't get sick, the Defendant just gave him heroin.

5           Al Harris testified he loved his nephew. Wane Briscoe  
6           grew up with the Defendant. He knew his birthday. Tonya  
7           Harris said, "I love him like a brother. He's my child's  
8           godfather." These people are not lying. They're telling the  
9           truth, and the reason why is simple. They're doing it for  
10          this little boy. Because even in a dog-eat-dog world, there  
11          is a code. You don't kill an innocent child. Not for  
12          90 grams of heroin. Not for the sins of the mother. You  
13          don't do it. And these witnesses told you that's why they  
14          came forward.

15          You heard from Wane Briscoe. He's on a recorded  
16          interview at Dorchester County Hospital, so stressed from  
17          coming forward in this case, he checked himself in. He tells  
18          the officer, "It crushed me when I found out what happened to  
19          that little boy." The officer tries to interrupt him, and he  
20          says, "No. I told the Defendant, I told him. You can't kill  
21          no kid for some financial gain. That's wrong." Wane Briscoe,  
22          he was consistent.

23          He was also consistently inconsistent. He told you in  
24          court and in Grand Jury, he couldn't remember the exact times  
25          of the call. What he remembered was a pattern of calls, the

1 Defendant calling him and calling him and calling him, and  
2 what he remembered was that at the beginning of those calls,  
3 the Defendant told him, "I'm going to rob Jennifer of  
4 250 grams." Wane said, "How are you going to do that? She  
5 knows you." The Defendant said, "Shut up. Don't worry about  
6 it. I got this." Wane Briscoe also remembered that the  
7 Defendant later called him and said, "It's done. Come get  
8 me," that Wane initially said no and then agreed in exchange  
9 for some heroin.

10 The third thing that Wane Briscoe remembered was that the  
11 Defendant told him how he killed Jennifer and how he killed  
12 Tone. The Defendant said he shot them in the head. He said  
13 he shot the little boy because he could identify him and he  
14 could say the Defendant was the last one there. On these  
15 things, Wane Briscoe never wavered. We're going to play a  
16 portion of those now.

17 (Recording played but not reported.)

18 **MS. BRUSCA:** Ladies and gentlemen, just for a moment  
19 let's focus on what Wane said. He said that the Defendant  
20 told him that Jennifer's plug was going to hit him off. He  
21 says, "Just do that. Just move the 80 grams like she asked  
22 you." He says, "No, I'm going to take it."

23 (Recording played but not reported.)

24 **MS. BRUSCA:** Now, what about Alfred Harris, Uncle  
25 BooBoo? Same thing. Very consistent. He said he stopped by

1 to see the Defendant every day. The Defendant, his nephew,  
2 his family, every day on the way home from work. And he  
3 testified that he saw the Defendant on Monday, June 1st, the  
4 Monday after the murders at Kizzy's house, and he had a bag  
5 full of dope.

6 And he said he saw the Defendant Friday, June 5th, at  
7 Tonya's house, 502 Greenwood Avenue, the morning of the  
8 search, again, with a bag full of dope, this time bagged up.  
9 And he told you that after he spoke to police on June 5th,  
10 2015, he went back to Tonya's house to get his car, and he saw  
11 Fatman holding the same bag of drugs outside of Tonya's  
12 apartment. That's what Alfred Harris told you.

13 What about Terrill Harris, Sr., he testified that the  
14 Defendant probably went to Kizzy's after coming back from  
15 Baltimore on May 28th, 2015. He testified that in the days  
16 after the murders, every time he saw the Defendant, the  
17 Defendant had 3- to \$400 worth of dope. He also told you that  
18 on the morning of that search where Al Harris was with the  
19 Defendant that morning, he hid the Defendant's drugs under the  
20 dresser, and then he told Fatman about them.

21 What about Tonya? She said Fatman came over after the  
22 search, went into her dad's room, Terrill Harris, Sr.'s room,  
23 came out and said, "See, they didn't get it." Now, she didn't  
24 see the drugs, she knew what they meant.

25 And what about the Defendant himself? He told Al during

1 a recorded conversation when he got out of jail he was asked,  
2 "Did they pay you back?" He says "Who? Fatman?" Al says,  
3 "Yeah." The Defendant says, "They didn't give me all of it,  
4 you feel what I'm saying. They gave me -- when I came home,  
5 they bought me a phone, some clothes and they gave me a  
6 couple -- they gave me, like, \$200 and then they just kept  
7 on -- they kept on spoon feeding me, you know what I'm saying?  
8 So I'm like, look, man, just give me \$700, and we're gonna,  
9 we're gonna, like every couple of days." I was like, "Yo,  
10 what's up man? I need some money, da, da, da. It was like,  
11 look, man, just give me \$700, and I mean, I'm going to go  
12 ahead and make that work from there, and I did." Four  
13 witnesses, including the Defendant, say that this happened.

14 What else did Uncle Harris say -- Uncle Al Harris say?  
15 He said, without almost any inconsistency, that the Defendant  
16 killed Jennifer because she had heroin. That he killed Tone  
17 because the boy could ID him, and that the Defendant got the  
18 gun from a guy Kiara knew. He said, "He told me he killed  
19 them." He said, "I was sitting there because I came home from  
20 work a day early, and I was sitting in the kitchen at Kizzy's  
21 house," and he said, "I killed the bitch."

22 (Recording played but not reported.)

23 **MS. BRUSCA:** I'm going to skip those for time sake,  
24 but you have them if you need them in the back.

25 Now, let's think about this for a second. Alfred Harris

1 testified that the Defendant told him he got the gun from a  
2 guy Kiara knew, that the Defendant said, "She's not as  
3 innocent as you think." Al Harris also testified he had met  
4 Kiara Haynes maybe twice. He could identify one of her  
5 pictures, but not the other. How is Al Harris going to make  
6 up that the Defendant got a gun from Kiara Haynes, a woman  
7 he's met twice, he's not. He heard it from the Defendant.  
8 And it's true, that is what happened, we know because -- you  
9 know because there's a call with Tariek and Terrell Powell the  
10 night before the murders when Kiara says, "I need the bitch.  
11 I need it for my fam. It's blood."

12 Let's talk for a second about Kiara Haynes. You don't  
13 have to rely on anything Kiara Haynes said to convict this  
14 Defendant of all of his crimes, but you should consider her  
15 testimony, and here's why. Kiara Haynes lied, yes, she did.  
16 Yes, she did. And then she came in and she told the truth.  
17 She told the Government about that call. It's her recorded  
18 getting a gun to commit robbery. That's not coded. That call  
19 is clear as day. And we had to find that call. She didn't  
20 have the recording. She just told us about it. And so what  
21 did Special Agent Weaver do, he looked and he listened, and he  
22 listened and he looked, and he found the call. And when you  
23 listen to it, it said exactly what Kiara Haynes had told us.

24 She also told about Martin DaShields, a stranger to the  
25 Defendant, who, just like Kiara, corroborated that on May

1 26th, 2015, he took Kiara and a male to go get a gun at the  
2 intersection of Edmondson and Warwick. It wasn't just any  
3 guy, it was the Defendant. His cell site said so. He said so  
4 when he told Detective Brian Lewis that he was going to drop  
5 Kiara off after leaving Tiffany Jackson's house, and Al said  
6 it. Al didn't know about this call.

7 The Defendant's confessions also corroborate Kiara. He's  
8 the one telling people he killed the little boy because the  
9 little boy could identify him.

10 Let's talk for a minute about what the Defendant did, how  
11 you know he's guilty. On May 27, 2015, the day of the  
12 murders, his phone goes dead from 11:43 a.m. to 12:58 p.m.,  
13 exactly when Jennifer and Tone are killed. He has no Facebook  
14 activity at all for 33 hours from May 26th to May 27th. He's  
15 incessantly calling Wane, why? For a ride to leave Baltimore.  
16 He busts into Tiffany's house, sweating, panicking, angry. He  
17 changes clothes and puts them in a bag. He won't talk to her.

18 After he leaves Cambridge, he told Kiara, "Come down  
19 here. He told her on a jail call, get rid of her phone ASAP.  
20 He told Detective Brian Lewis that he had been texting with  
21 Jennifer on the morning of May 27th, but he rebooted his  
22 phone. He didn't have any messages to give. He didn't call  
23 police, and he didn't reach out to Jen's family.

24 And during those meetings with Baltimore Police, and  
25 later with Special Agent Javon Weaver, the Defendant lies, and

1 we're not talking close calls, we're taking lies, because he  
2 never spoke to Jennifer after leaving her house on the morning  
3 of May 27th, 2015. We know it's a lie. She called him at  
4 11:41 a.m., and they spoke for two minutes.

5 He tells Detective Lewis, "I arrived at Tiffany's house  
6 on May 21st before noon." Again, simply not true. He was in  
7 the area of Kiara Haynes' house until at least 1:06 p.m. He  
8 also told Detective Lewis that he and Tony had stopped getting  
9 drugs from Jen and CJ well before the murders, but you heard  
10 the call, ladies and gentlemen. You heard two calls. One  
11 where CJ tells Jennifer, "Get the 80, give it to Fatboy and  
12 them, Tony and them." And one later, the night before the  
13 murder when the Defendant is on the call with CJ and Jennifer,  
14 says, "We'll take care of it, we got leverage, it ain't too  
15 much."

16 The Defendant also told ATF in 2020, "I didn't spend the  
17 night at Jennifer's." Now, the Defense wants you to believe,  
18 oh, it's five years. It's his memory. It's not his memory,  
19 ladies and gentlemen. Watch the statement. He said, "When I  
20 left Jen, it was still nighttime."

21 A little bit later in the interview, Special Agent Weaver  
22 says, "So you spent the night at Kiara's?" He said, "No, no.  
23 I told you. I didn't spend the night there. "Why is he  
24 lying? He's distancing himself from CJ, and he's distancing  
25 himself from Jen. He denied even knowing Jen's supplier.

1 And then on top of it all, he downplayed Kiara's anger  
2 that night. She walked over at 5:00 a.m. in the morning and  
3 she's banging on the door. Defense tells you -- played you  
4 countless calls to show you how angry Kiara was. What does  
5 the Defendant say when he's asked about the fight. He says,  
6 "Oh, to say they was beefing. No, I ain't going to say it's  
7 beefing. Yeah, I mean with respect to Kiara, she fussed, we  
8 fucked, and it was over with, you know."

9 "What about Kiara being mad at Jen?" "Oh, I ain't going  
10 to say she was mad at Jen? She just thought I was on some.  
11 I'm like, No, you know how women are on their insecurities.  
12 That's all it was."

13 Why is he protecting Kiara? Because he and she committed  
14 this crime together. She is a risk for him. If she talks,  
15 she will talk about him, just as she did.

16 The Defendant also hid information from police. He  
17 denied knowing Junior's real name. Ladies and gentlemen, this  
18 is his cousin. This is a letter that the Defendant sent to  
19 Junior, and guess what, he knows his name.

20 He denied knowing Tiffany's address. It's on his phone  
21 bill for his new phone that he got five days earlier, but he  
22 didn't know it then. He didn't identify the homeboys who were  
23 with him at Tiffany's house. He says, "Just check with  
24 Tiffany and her family." Why? She don't know nothing. And  
25 he didn't provide an address in Cambridge. He said he never



1 stayed at my cousin's unnamed. I never -- I stayed with my  
2 baby girl, unnamed. I stayed with my grandma.

3 During that interview in 2015, the Defendant offered only  
4 one name the police didn't already know, Tarrell. Kevin  
5 Wilder, CJ Williams both told you Jennifer didn't know a  
6 Tarrell. There is only one Tarrell in this case, Tarrell  
7 Powell, the one who gave the Defendant and Kiara Haynes, the  
8 gun.

9 Now, the Defendant's guilt follows him for years. After  
10 Al Harris comes to see him in jail on the second visit, it  
11 didn't take more than two visits. The Defendant sends a  
12 letter to his cousin Wane Briscoe. He says, now about Uncle  
13 BooBoo -- this is August 5th, 2019 -- Cuz, he keep asking  
14 crazy questions about the past dealing with that girl, because  
15 if he call you or he come through to holler at you and get to  
16 asking questions about that situation, don't feed into his  
17 questions. Tell him to talk about something else. He came to  
18 see me twice, and both times he brought that situation up.  
19 I'm putting you on point so you can limit your conversations  
20 with Unc and the past.

21 There is no reason to limit the conversation unless there  
22 is something to limit, ladies and gentlemen, and there was.  
23 Wane Briscoe told you it was this situation where the  
24 Defendant killed Jennifer and her son.

25 And, finally, there is the search for that letter at Wane

1     Briscoe's house. The search happens January 3rd, 2020. The  
2     Defendant finds out the same day in a call from his grandma.  
3     Don't talk to anyone. They don't want to talk on the phone,  
4     says grandma. And he gets out of jail on January 29th, 2020,  
5     and he opens a Facebook account, and the very first thing the  
6     Defendant does is start to look for Kiara Haynes. He searches  
7     for her every which way, sends her a friend request. She  
8     doesn't accept it or his messages.

9             He messages Chip Blackwell, "Brother that girl Kiara  
10     Haynes is my cousin, she missing. Her Facebook is  
11     deactivated. You are the only friend on Facebook. If you  
12     have any information on her or can reach her, tell her I'm  
13     home. She know me as Poo and my real name. If you can help,  
14     please help, please." A couple days later, he posts a photo  
15     of Kiara Haynes with a message, "Kiara Haynes, my cousin."

16             And then there is the guilt that eats the Defendant up  
17     when he was drinking, crying, and sleeping, he's having  
18     nightmares.

19             Terrill Harris, Sr. told you he was on the balcony with  
20     the Defendant -- I skipped ahead. First Tonya Harris, she  
21     said we were sitting down at the table, and he was basically  
22     telling me, he was telling me how crazy Jonice was. And he  
23     was like, "This bitch be eating my nuts," and then he was  
24     like, "I keep waking up in sweats, and I had a dream. In the  
25     dream, I woke up because Jen was clutching my nuts." And I

1 was like, "Why are you dreaming about Jen?" I was like,  
2 "What? You killed her or something?" And then he was like,  
3 "Yeah." And I was like, "No, you didn't. You got to be --  
4 you would have to be a fucking monster to do that." And he  
5 was like, "I did it." And I was like, "Cuz, you would have to  
6 be a monster to do that."

7 The Defendant's Uncle Terrill Harris, same thing. Not a  
8 dream this time. He wasn't feeling too good about himself,  
9 the Defendant. He was talking to me and he was like about to  
10 cry. He said, "I done F'd up, you know. I did something and  
11 I'm going to have to pay for this one." He said, "God, you  
12 know, he's going to make me pay for this one." He definitely  
13 has to pay for it.

14 Ladies and gentlemen, there is only one person in this  
15 case who had the motive, the means, the opportunity, and the  
16 guilt for committing the murders of Jennifer Jeffrey and her  
17 son.

18 We know it from his statements. We know it from jail  
19 calls. We know it because the gun was used to kill Jen and  
20 Tone and to shoot Tone in the face. He had the last call to  
21 the victim. His cell towers keep him in the area, and they  
22 have them fleeing to Tiffany's where he comes busting in  
23 sweaty and stressed.

24 In the days after the murders, he stole the victim's  
25 drugs. He never called the victim again. He lied to police

1 and he confessed four times. He said he could kill the boy  
2 because the boy could ID him, and those nightmares haunted him  
3 for years.

4 Ladies and gentlemen, it's time for the nightmares to  
5 end. It is time to put Jennifer Jeffrey and her son to rest.  
6 The Defendant thought he left no witnesses, but you have borne  
7 witness to the evidence in this trial. You have borne witness  
8 to the testimony of the 25 witnesses that have been called,  
9 and the hundreds of exhibits.

10 And that's why we ask you at the end of today to go back  
11 to the jury room and to return the only verdict that's  
12 consistent with the law, the evidence, and your common sense,  
13 and that's a verdict of guilty on all counts.

14 **THE COURT:** Thank you, Ms. Brusca.

15 We'll take a very brief ten-minute recess. We'll let  
16 Mr. Purpura have time to organize his materials.

17 This court stands in recess for ten minutes.

18 **THE CLERK:** All rise. This court stands in recess.

19 (Jury excused 10:57 a.m.)

20 (Short recess taken.)

21 **THE CLERK:** This court resumes its session. The  
22 Honorable Richard D. Bennett, presiding.

23 **THE COURT:** You all may be seated and we'll be ready  
24 to bring the jury in a second.

25 Before we bring the jury in, ladies and gentlemen, I just

1 want to emphasize to those members of the public in the  
2 gallery, it's an open proceeding, everyone is welcome, but I  
3 think as Mr. Gurevich has indicated, all cell phones should be  
4 turned off so the Security personnel should not have to  
5 monitor that. You all should have your cell phones turned  
6 off.

7 And if there is a child in the courtroom, please position  
8 yourself close enough to the end of the aisles that if you  
9 have to quickly take the child out, just go out the door. You  
10 can come back in again. I don't want to limit anyone, but  
11 it's difficult if you're over here on this side of the  
12 courtroom trying to get all the way out if the child happens  
13 to be making any noise.

14 So with that, Mr. Gurevich, if you'll retrieve the jury,  
15 please.

16 Mr. Purpura, are you ready?

17 **MR. PURPURA:** I am, Your Honor.

18 **THE COURT:** All right.

19 **THE CLERK:** All rise for the jury.

20 (Jury enters courtroom 11:17 a.m.)

21 **THE COURT:** All right. With that, thank you all  
22 very much. Everyone may be seated.

23 And with that, we'll now hear the closing argument for  
24 the Defense, Mr. Purpura.

25 **MR. PURPURA:** Judge Bennett, thank you very much.

1 Don't we all wish that life in this case could be just as  
2 tidy as a well-prepared PowerPoint. Life's not like that and  
3 either is this case.

4 Next to -- possibly equal with military service, the next  
5 important service we have is what you all are doing as jurors.  
6 The military protects our freedom, and you all as jurors here  
7 protect our liberty, our democracy.

8 Ms. Whalen and I thank you all, jurors and alternates,  
9 for your service, and this service has not and will not still  
10 be an easy one.

11 As a father, as a grandfather, the death of Jennifer  
12 Jeffrey and, in particular her innocent seven-year-old child,  
13 K.B. is heartbreaking. I still have the image of Detective  
14 Lewis on the witness stand, and I think Mr. Budlow was  
15 distracted and Detective Lewis was holding up pajama bottoms  
16 of the child. It was for seconds but it truly, truly was  
17 heartbreaking.

18 To accuse anyone, anyone of this absolutely horrific,  
19 horrific crime and ask a jury to convict, the Government, the  
20 prosecution must, you have to, must have the evidence to prove  
21 beyond a reasonable doubt. Respectfully, I hope you will  
22 agree with me, and I'm going to talk another 30 or 40 minutes.  
23 In this case, no matter how hard they try, no matter how hard  
24 they tried to package their evidence in a PowerPoint, in  
25 close, or in rebuttal, they are woefully short in a case of

1 this magnitude and this nature.

2 At best, the evidence you heard, all of the evidence that  
3 you heard is circumstantial and clearly not sufficient or  
4 trustworthy. Every civilian witness who testified, probably  
5 with three exceptions, Mr. DaShields, he was the  
6 Uber/hack-driver.

7 CJ Curtis, CJ Curtis Williams, he's the drug trafficker  
8 the one that watched the Drunk, Inc., on TV, and I'll agree  
9 with the Government, Tiffany Jackson. They seemed to be the  
10 most candid and the most reliable. All of the other  
11 witnesses, Al Harris, Terrill Harris, Tonya Harris, Wane  
12 Briscoe, Kiara Haynes, every single one of them admitted they  
13 lied multiple times.

14 Initially, every single one of them, every one, gave a  
15 different story of events. In every single one of their  
16 cases, any alleged statements made by Andre Briscoe was just  
17 made to them. There was no one else present who could  
18 corroborate what was said, or if it was said. Every single  
19 one of them has an extreme close connection to each other by  
20 way of family and by way of specific drug trafficking within  
21 that family.

22 There are only two choices that you have in this case,  
23 guilty, not guilty. Has the Government -- to say it a  
24 different way, has the Government proven their case beyond a  
25 reasonable doubt that it's guilty, or have they not proven

1 their case that it's not guilty.

2 Andre Briscoe is not guilty. I know you all listened and  
3 you did attentively to the evidence and you took notes. Quite  
4 frankly, probably in my 40-plus years, almost as long as Judge  
5 Bennett has been on the bench, I never saw a jury take more  
6 concentration and better notes than you all. And you all came  
7 here every day, punctually, and it's probably us that slowed  
8 you all down.

9 What I should do at this time, after saying that, I just  
10 don't have the nerve or fortitude to do it, is just to sit  
11 down and let you all get back there as quick as you can and  
12 make the right decision. But what I'm going to do is I'm  
13 going to talk to you a little bit longer. And what I'm going  
14 to say is just -- just my recollection of the testimony, my  
15 recollection of the events. What's important is your  
16 recollection of the testimony, your opinion of the demeanor of  
17 the witnesses when they testified as to their credibility or  
18 not credibility, which you rely upon them in an important  
19 manner in your life.

20 The indictment basically can be broken down two ways, six  
21 counts. The easiest way to look at it is drug conspiracy and  
22 murder, because that's what it's all about.

23 The Government's first, I believe, civilian witness was  
24 Al Harris. And what Al Harris said from the witness stand --  
25 and you remember in the Government's exhibit, he had the same



1 shirt on that he actually testified to. I remember that  
2 because the shirt had a gray pattern -- although some of us  
3 deny that, it had the gray pattern, and I asked him to stand  
4 up and -- because he said that the heroin that he saw in the  
5 bag that Poo brought back was gray. And I really questioned  
6 him on that, and y'all thought, well, why is he questioning  
7 him on that, that's a silly thing, but it was gray, and that's  
8 what he said.

9 What we know is that the drugs that CJ Williams were  
10 making or was making was a mixture of Percocet and food  
11 coloring. He actually said it was garbage, it was bad, and it  
12 was beige, and that's why we have the gray and beige, because  
13 the -- because the Government's entire theory of the case is  
14 that the drugs, which came from Baltimore back to Cambridge,  
15 were the drugs taken from Jennifer Jeffrey. And clearly  
16 they're not. Their own witness said it was gray, not what CJ  
17 was making.

18 Terrill Harris, the one thing we know about Terrill  
19 Harris is that he's been a heroin addict and coke addict for  
20 30-something years, and what he knows is his drugs, just  
21 that's what he does, he knows what it is. And he was brought  
22 to Baltimore to Perkins Projects for a specific reason, and he  
23 was going to test those drugs, and he did test those drugs.  
24 And what he said at the conclusion of the tests, and what he  
25 said from that witness stand to you all, the drugs are good.

1 Grand Jury testimony, witness stand testimony, the drugs  
2 are good. And we know that the drugs at Jennifer Jeffrey's  
3 house were garbage.

4 Post-arrest statement, Andre Briscoe. When the work got  
5 bad, when the work got bad, we didn't want the work. It  
6 wasn't no good. The dope wasn't no good. We didn't want it.  
7 I was up there to grab something else, some other dope, not  
8 from her. Now, he might have wanted that dope as well, but  
9 the dope that he really wanted was the dope that he told  
10 special agent that he was in Perkins Projects trying to get  
11 and got. The good dope. The gray dope. The dope that Al  
12 Harris saw. The dope that Terrill Harris, Sr. tested.

13 Not only did he say the same thing in 2020 when he spoke  
14 to Detective Lewis back in 2015 on June 5th, he said the same  
15 exact thing, the dope CJ had was junk, garbage. So that alone  
16 should give you pause, just that slide and nothing else. The  
17 Government's theory is that that man kills a woman and a child  
18 for garbage that that man knows he will hardly be able to sell  
19 anywhere, or does his statement make more sense, that he was  
20 there to get something from someone else, and it's verified by  
21 the witness, the Government witnesses.

22 The only person -- the only person that places Andre  
23 Briscoe back at Jennifer Jeffrey's home sometime in the late  
24 morning or early afternoon of May 26, 2015, is Kiara Haynes.  
25 Even the cell tower information does not corroborate this,

1 just the opposite as Special Agent Wilde testified to, and  
2 you're going to have that exhibit, I don't have the exhibit  
3 number, but it's a pack. It looks like this. You've seen  
4 them. It's about this thick. You can go through all of the  
5 photos, and you're going to see everyone, how they were  
6 traveling, not only Andre, but Wane. The one thing you won't  
7 see who was traveling, unfortunately, is Kiara Haynes, because  
8 by then those records are no longer in existence. But  
9 clearly, you can see where the phone of Andre Briscoe was in  
10 the evening between around 12 midnight, you see the times  
11 right up there, and about 5 o'clock in the morning right at  
12 Jennifer Jeffrey's house.

13 The phone moves and at 11:41 -- 11:41 would be the cell  
14 tower furthest away, and it's right there at the bottom.  
15 11:41, it's the last call that the Government keeps on talking  
16 about. And let's think about that call for a second and use  
17 our common sense.

18 If it was an outgoing call, an outgoing call from Andre  
19 Briscoe to Jennifer Jeffrey, that would make sense in the  
20 Government's theory, because Andre Briscoe at that point would  
21 be trying to find out, is she home? Is she home with her  
22 child? What's going on up there if I'm going to go back up  
23 there and steal or rob the drug, but it's just the opposite.  
24 It's an outgoing call from Jennifer Jeffrey to Andre Briscoe,  
25 and then there is no more communication with Andre Briscoe and

1 Jennifer Jeffrey.

2 Now, let's infer what that call's all about, all right,  
3 from the evidence. She's calling him. He tells her, "I've  
4 got a ride. Junior is going to pick me up. I don't need a  
5 ride back, going down to Perkins, talk to you later." That's  
6 it. No need to call her back, she knows where he's going,  
7 what's going on, and the cell towers then do put him down  
8 towards Perkins right around 1:58.

9 Look at the cell records, you're going to have those,  
10 and you're going to see that in the month before, there are  
11 not a lot of calls between Jennifer Jeffrey and Andre Briscoe.  
12 What makes sense is this communication was the last  
13 communication because Andre said, "Heading to Perkins, talk to  
14 you some other time."

15 Common sense one more time, just an aside. Andre's in  
16 the house. We know that from the phone records from 12  
17 midnight until 5 o'clock in the morning. We know that Kiara  
18 comes sometime around 4 o'clock and is banging on the door.  
19 We'll talk about that in a few minutes. What goes on? We  
20 know that Brianna Street testified after Kiara left and  
21 stopped banging on the door after they called 911, every one  
22 went back to sleep.

23 At that point, the Government's theory is Andre Briscoe  
24 knows where the drugs are, right there in the bedroom. Knows  
25 where the gun is, because Kiara took it out. And instead of

1 just walking from the one bedroom where he's sitting in that  
2 white chair, going in the dresser, pulling the drugs out,  
3 putting them in his pocket if he wanted, the garbage that it  
4 was, and leaving. Instead, he makes this big plan to come  
5 back the next day when she's wide awake and bring a gun and  
6 put a bullet in her and a bullet in K. Common sense, it just  
7 doesn't make sense. And you heard drug dealers talk on the  
8 witness stand, and you heard them say, because I asked them.  
9 "What happens when someone steals your stash? Can you call  
10 the police? Well, you know, you can't call the police. I  
11 could take matters into my own hands, do something."

12 Where is CJ at this time, he's in jail, so if Andre  
13 Briscoe wanted those drugs, walk, walk, walk, take, pocket,  
14 down the stairs out the door.

15 Ms. Pittman, same scenario, common sense, right there.  
16 The one thing -- she was a sweetheart. She had the cane, she  
17 came in here, 67 years old. Husband, unfortunately, has  
18 passed away. Lived right next to her. Loved the child. She  
19 waits -- she has TVs all over the house, which is somewhat  
20 unusual, maybe not always, and she says the TVs are on, the  
21 one especially in the bedroom on all the time. So make no  
22 mistake about that. And there's other TVs around, but she's  
23 still -- regardless of the TVs, she can hear in the morning,  
24 because she can hear it, K. running down the steps. And that  
25 morning of the 27th, she didn't hear it, and that concerned

1 her.

2 K. at that point probably, who knows, but at that point  
3 he was in bed. He wasn't going to school that morning, that's  
4 for sure. We know he came outside a little later with his  
5 pajama bottoms on. So he wasn't running down the stairs. She  
6 didn't hear that. But equally so, that very next-door  
7 neighbor, and the Government, you'll have the picture of the  
8 house -- the Government didn't use that during their close,  
9 the house, they share a common wall. And one thing she didn't  
10 hear, and I probably can bang louder, but six, .45-caliber  
11 gunshots, she didn't hear that.

12 Now, here is a woman, a next-door neighbor who is so  
13 concerned about K., if she would have heard something like  
14 that until she left, you know darn well she would be banging  
15 on that door next door, "What's going on here," or she will be  
16 calling 911. She wouldn't just close her ears and close her  
17 eyes, that's not her. She left at 2 o'clock in the afternoon.

18 At 1:58 in the afternoon, 1:58 his cell phone is bouncing  
19 off the Perkins projects cell tower, and he's told the agents  
20 and homicide where he was, and it's been corroborated.  
21 Tiffany Jackson's house, 2 o'clock, common sense.

22 Just briefly, I'm going to talk about the Baltimore City  
23 homicide investigation. And I mean this absolutely sincerely,  
24 Detective Lewis, you will never, ever find a better human  
25 being than Detective Lewis. This city is lucky to have had

1 him and still have him, and the same with his partner,  
2 Detective Parker. He told you -- and you all can use, again,  
3 your own experiences as if you're here in 2015. He told you  
4 what it was like working homicide in the city in 2015. He was  
5 a primary and a secondary on multiple, multiple cases.

6 The riots lasted over four weeks. He was unable to  
7 investigate homicide scenes without uniformed police officers  
8 accompanying him, because of the riots and fear for his  
9 safety, and the safety of those he worked with. And he told  
10 you candidly, candidly that he has PTSD as a result of this.

11 During this time, as we've heard, the Kiara Haynes phone  
12 records were never requested, and that's despite the  
13 investigators knew of what she did that night when there was a  
14 911 call, just like hours, hours before the murder, banging on  
15 the door ten minutes, yelling, screaming, God knows what she  
16 was saying. You heard her on tape. But despite that, those  
17 records were never obtained, in 2000- -- Special Agent Weaver  
18 2019, they're no longer available.

19 CJ Curtis was interviewed May 29th by homicide while he's  
20 at Towson Detention Center. He begged. He begged the  
21 detectives, "Get the video. Get the video. This will show  
22 you who did it. Get the video. It's in the kitchen," he  
23 said, "The video you looked at?" And we went through -- I  
24 think Mr. Budlow put the crime scene technician on the witness  
25 stand. We must have looked at 60 photographs, 60, and the

1 first -- as you may recall, the first series of photographs  
2 everything is pristine, so nothing has been touched at that  
3 point. Sixty, whatever amount of photographs, not one single  
4 photograph, not one, showed the camera or where it was placed.

5 Brianna Street testified that the bill wasn't paid and  
6 there was no service. Government submitted a Comcast bill,  
7 Government Exhibit 1.27, you're going to have it. Look at it.  
8 This billing dated April 14th, 2015, it shows a reactivation  
9 fee for home security March 19th. We never know. We never  
10 heard from Comcast if this was reactivated or not. We don't  
11 know if anything is captured or not, maybe not on that, but  
12 perhaps in the cloud. We just don't know, and it was never,  
13 ever investigated. You'll have the exhibit, but it's clearly  
14 not enough.

15 Bottom line -- bottom line about the investigation is  
16 even after canvassing the area, talking to various witnesses,  
17 interviewing Andre Briscoe on video seated down in Dorchester,  
18 Cambridge, in the police department for two hours with two  
19 homicide detectives conducting a homicide investigation, Andre  
20 Briscoe wasn't charged. The case wasn't presented to a Grand  
21 Jury. No action.

22 November 9th, 2016, Al Harris needs help. It may just be  
23 a failure to pay restitution, but this judge -- I think his  
24 name was Judge Jews, J-e-w-s, doesn't mess. He's afraid he's  
25 going to go back to jail. He remembers homicide. Takes that



1 card, makes a few calls. They said Baltimore City homicide,  
2 you know, they said it a couple times. He says first  
3 November 9th, 2016, "Remember what I told you, right, about my  
4 revocation hearing?" He says that a couple times to him. Did  
5 they help him? No. He even asked for money for bus fare.  
6 They even stiffed him on the bus fare. He didn't get help  
7 until the following year and that's when he got help from the  
8 Feds. He got signed up, again, he's in jail. He got out  
9 early on parole before his maximum parole.

10 And he received -- and you have as an exhibit -- \$6,900  
11 of taxpayer money for his cooperation, and you can see the  
12 dates when he got the bigger checks. Recorded meeting, MCTC  
13 \$200. Recorded meeting, MCTC \$200. Recorded meeting, MCTC  
14 \$200. Recorded meeting, MCTC another \$200. And the big  
15 check, May 27, 2020, when he was arrested five days earlier  
16 \$700, and you're going to have that as an exhibit.

17 When Al Harris -- I mean, you know, you don't want to  
18 make light of a tragic life, but he's been -- as the  
19 Government's brought out, he's been a long-time thief. He's  
20 familiar with the criminal justice system. He's been in and  
21 out. He's lied most of his life. He's been a drug addict,  
22 drug salesperson. He's used various names, which he admitted  
23 to. He used multiple Social Security numbers, which he  
24 admitted to. He has multiple dates of birth, which he  
25 admitted to when law enforcement stops him. He lied to you

1 when he told you about the fight that Anthony and Andre had.  
2 You heard Anthony from the witness stand. Did he ever say to  
3 Andre, "You don't get credit for killing little kids? He  
4 said, "Absolutely not."

5 Let me add Anthony to the witnesses that you can believe.  
6 And you can just tell from his demeanor, and based on the  
7 cross-examination by Mr. Budlow, that he was telling you the  
8 truth when he spoke. That didn't happen.

9 He lied to you when the police knocked on that apartment  
10 door (makes sound) June 5, 2015, and he says at the point  
11 Andre gets up and he runs back to the bedroom, back bedroom,  
12 and runs back out again and is standing on the couch when the  
13 police come in. Lied to you twice there. He lied -- or maybe  
14 not.

15 First thing he tells the police, June 15, 2015, "I ain't  
16 know nothing until you just told me, man." He goes on to say,  
17 "If you remember, I'm run my own investigation," and he wanted  
18 a homicide's card. "I'm going to run my own investigation."  
19 And what does he do? He does in a sense. He hears things,  
20 clearly, clearly when Baltimore City homicide crosses that Bay  
21 Bridge and comes to Cambridge and takes someone down, you  
22 think something's bigger than selling drugs.

23 They know about Jennifer Jeffrey. They know about her  
24 child. Talk is going all around that very small community,  
25 talk, and that's just what it is. And he wanted to use that

1 talk to his benefit. He tried it with Baltimore City  
2 homicide, it didn't work. He did hook a fish when it came to  
3 ATF, though.

4 So what do we have? I mean, we can't put him on a lie  
5 detector. There is no button that we can press when he's on  
6 the witness stand, and it's going to light up and say truth,  
7 lie, truth, lie. It would be great, doesn't happen. So all  
8 we get are people like me, who have limited skills in anything  
9 else, and they become lawyers, and we ask them questions. And  
10 the questions -- the only thing we can do as the truth finder  
11 is to see does the truth change, because we know the truth  
12 never changes. It's simple.

13 If you say something once, you can repeat it again and  
14 again and again, especially something as big as this, because  
15 the truth never changes. October 26, 2017. He's talking to  
16 Special Agent Weaver. Heard about it prior to raid. Andre  
17 drunk, crying outside. That's when he's saying, I heard the  
18 first time he's drunk. He's crying. He's outside. He  
19 actually goes on to say that his girlfriend is nearby, near  
20 the car.

21 In the same statement -- in the same statement to Special  
22 Agent Weaver he says, "Could have been my niece's house,  
23 Tonya, bunch of people there." Who are those bunch of people?  
24 And now it's Tonya's house, crying outside and now it's  
25 Tonya's house.

1 And finally as the Government put up on their PowerPoint,  
2 the last time in front of the United States Grand Jury,  
3 sitting at a kitchen table at Kizzy's house, not Tonya's,  
4 Kizzy's house, Andrea Molock's house, he said for the first  
5 time, "I killed the bitch." And yeah, I was -- yeah, he was  
6 sober. Yeah, he was sober.

7 So just look at those three things: Drunk, outside,  
8 crying. Next time same statement, "Could have been my niece's  
9 house, Tonya, bunch of people there." Third statement, stone  
10 sober, Kizzy's house, table.

11 I don't believe the Government went into much detail  
12 about his four visits to MCTC, which he got paid a total of  
13 \$800 for. So he's going to MCTC, he's all miked up like me  
14 here, but it's being recorded, and Andre puts him on his  
15 visitor's list. Remember that letter, "Love you. Put me on  
16 your list."

17 So he puts him on the list, which you have to do, and he  
18 comes and visits him. And he's talking about -- keeps on  
19 trying to -- he does pump him about dreams. And in the very  
20 second visit when he starts talking to Andre about dreams,  
21 Andre tells him for probably the first time, you know, "Yeah,  
22 my dreams -- I'm getting over the dreams right now. I'm not  
23 taking medication, a lot of people here are taking medication,  
24 I'm not. I'm doing a lot better with the dreams." And then  
25 he pushes him more, and as the conversation goes on, he tells

1 him, "Well, the reason I'm having these dreams is because when  
2 I was young, in Georgia, living in this house, I was molested.  
3 And Daddy" -- he said "Daddy, had to come down and take me  
4 home."

5 And you heard his brother, Anthony, he testified from  
6 this witness stand, and we didn't ask him this question,  
7 Government counsel asked him this question, Mr. Budlow. Mr.  
8 Budlow asked him, "Well, how did you know about these" -- "How  
9 do you know about these dreams?" And Anthony said, "I was  
10 there."

11 "Well, then who did it?" Thinking maybe he trapped him.  
12 "My cousin."

13 "Do you know his name? I don't remember his name, but I  
14 do remember he just came home from the military."

15 "Did you call the police? Nine-year-old, ten-year-old,  
16 he said, "No, I told my Daddy."

17 "What did your Dad do? He came and got us both."  
18 Nightmares, maybe even sexual in nature.

19 Wane Briscoe -- I'm moving to try to be quick. I told  
20 His Honor 57 minutes will be my longest close, and I'm going  
21 to beat that and get it lower, so I want to try to push on.

22 Wane Briscoe, what's his big fact? His big fact is what  
23 he told you, ladies and gentlemen of the jury. His big fact  
24 is that Andre -- remember he's sitting here -- Andre confessed  
25 to me sitting at a table in Perkins Projects, first time.

1 Very descriptive, very detailed. You're going to get --  
2 you're going to have, receive. I don't think "get" is the  
3 right word. You're going to receive, as an exhibit 19.1, and  
4 rarely, if ever, does a jury get a Grand Jury transcript, but  
5 both counsel agreed, and you're going to get it.

6 The Grand Jury proceeding, as you heard, is so much  
7 different than the proceeding we have here. The Grand Jury  
8 proceeding is just the prosecutor, as you heard, the witness,  
9 and the grand jurors. No Defense attorney, and no Defendant.  
10 Think of an old time New York prosecutor joke that he could  
11 indict a ham sandwich for murder in front of the right Grand  
12 Jury, and you probably can. It's just a very one-sided  
13 proceeding. That's why normally Defense says, no, man, you  
14 can't have this. You have it. And you look at it. And you  
15 look to see in the entire Grand Jury transcript if he at one  
16 time says to that Grand Jury under oath, The first time I  
17 heard about it, very descriptively, is Perkins Projects,  
18 sitting at the table, and the answer is no.

19 What he tells the United States Grand Jury is that he  
20 remembers the first time was when -- after he picked up Andre  
21 and he's in the car with his aunt and uncle, Terrill, Sr. and  
22 Boug, and that's when he said, "I killed her." He killed her,  
23 and the son.

24 He repeats that, he says it on page 21. "Do you remember  
25 if Poo said anything during the drive? I think he said he

1 killed her. And did he tell you at that point if he had  
2 killed her son? Yes.

3 Ms. Brusca asked again on page 28, because there's  
4 actually witnesses to that conversation and she knows, because  
5 she's had these witnesses before the Grand Jury. That would  
6 be Ms. Martin, Terrill, Sr. They just don't corroborate that.

7 So she asks him again. "And do you remember if when Poo  
8 was telling you that he -- that was while you were in the car  
9 or in the conversations the days after or before you even went  
10 to get him?" Sorry, should have moved to Wane Briscoe, I  
11 apologize. And his response again was, I think in the car.  
12 And this is even though -- question, "Even though your aunt  
13 and uncle were there, you think it was in the car? Yes."

14 And just to segue just for a second, because I missed it.  
15 The one thing that Wane Briscoe says to Special Agent Weaver,  
16 I think which is restated many times with all of the  
17 witnesses, everybody was just saying, yo, meaning Andre, must  
18 have did something crazy. I mean, he must have did something,  
19 but I never knew nothing about that. People were talking, and  
20 there was a lot of talk.

21 Then in the same Grand Jury proceeding, which you're  
22 going to have, I don't think you could probably read that or  
23 not, but sorry it's not darker. But what happens in a Grand  
24 Jury, unlike a jury here, now you all can't just raise your  
25 hand and ask a question, but in the Grand Jury proceeding, the

1 prosecutor says, does the Grand Jury have any questions? And  
2 one Grand Juror was kind of thinking, well, he made that  
3 statement in the car with two people present, let me ask about  
4 that, and she did. She said, "I just want to get back to the  
5 aunt and uncle." This is the Grand Jury.

6 What was the reaction when Poo said he killed Jennifer?  
7 I mean, is that normal conversation amongst four people in a  
8 car, "I killed Jennifer."

9 What was their reaction to that statement? But what was  
10 their reaction? And then Wane says, "Well, Boug," meaning his  
11 aunt, was -- "she just didn't like it one bit," indicating  
12 that Boug heard it and was annoyed by it. She was just mind  
13 boggled.

14 Now, Mike Hamlin, another Assistant U.S. attorney sitting  
15 there asked, "How about your uncle or the uncle?" Wane,  
16 "Well, at that time, I don't know. Like, I don't know if he  
17 said anything, or he just, like, shook his head. Shook his  
18 head like."

19 So three times under oath in the car two people are  
20 witnesses, under oath to you all, Perkins sitting at a table.  
21 The last couple points of Wane Briscoe, what he did say and,  
22 again, you're going to have the transcript and I'm asking you  
23 to please look at page 17 and 18 of the transcript when you  
24 get it. It's really -- it's a gold mine you normally don't  
25 get it.



1 He's asked specifically by Ms. Brusca -- he's asked  
2 specifically by Ms. Brusca as to, "Well, when he calls you,  
3 the first time that's to pick him up, pick him up," because we  
4 know there is a lot of phone calls going back and forth, and  
5 I'll show you where the exhibit is that has all of those  
6 records.

7 The first time he calls, "The first time he calls to pick  
8 me up, when is that? It's right after he told me what  
9 happened. So what time is that?" He goes, "I don't know the  
10 exact time, but it's nighttime. Are you sure it's nighttime?  
11 Yes, it's dark outside. It's nighttime."

12 Why is that important? Hold on one second. Page 18  
13 repeats it again. Nighttime and then he says he doesn't come  
14 and pick him up, not right away. It takes a day to a half day  
15 before he comes and picks him up. So he gets the call at  
16 nighttime, and it's a day almost delay until he picks him up.

17 Now, with that, you're going to have Government's  
18 Exhibit 11.2. And I apologize for not having this on a  
19 PowerPoint, but I'm just not particularly skilled with  
20 PowerPoints. I'm better with easels.

21 Look at page 2, because the only nighttime call -- when  
22 Andre is calling Wane, the only nighttime calls are at -- that  
23 connect are at 10:00 in the evening. So it's dark outside at  
24 10:00 in the evening. There is more attempts at 12:45, but  
25 that's going to voicemail. We heard that, those messages.

1 And the next call is not until 8:17 in the morning, 8:17 in  
2 the morning. 8:17 in the morning, Wane agreed with me, it's  
3 light outside.

4 You look at the next day and you go right on through, and  
5 you're going to see the only nighttime calls, which is  
6 consistent with the day picking me up or a half day picking me  
7 up is the call that night at around 10:12 on the 26th, and  
8 this exhibit you will have, and please, please look at it.  
9 Again, it's Government's Exhibit 11.2.

10 We know that at that point if he's right, between the  
11 difference of day and night, light out or dark, that's not a  
12 difficult one to be accurate about. Sometimes the truth  
13 doesn't change. Nighttime, daytime. We know at that time  
14 Jennifer Jeffrey is obviously well alive. It's all before  
15 Kiara bangs on the door and even before Andre actually arrives  
16 at the house.

17 And then if you need to question anything else about  
18 Wane, for the very first time, for the very first time when he  
19 testifies before you, he indicates that "Fatman said that Poo  
20 is going to come for us. We're going to have to kill him if  
21 we don't sell the drugs."

22 Even Ms. Brusca -- and I'll quote to her credit, she said  
23 it right away, "Mr. Briscoe, have you ever told the Government  
24 that before? All those interviews, so what's important with  
25 that? No, the very first time. Because he's a gentleman, and

1 I asked him that question, that has difficulty telling truth  
2 versus fantasy. You heard he said he has PTSD, worried about  
3 Huntington's disease. He lost his wallet coming through the  
4 metal detective. Now, he didn't remember that. We had to  
5 call Special Agent Weaver. He lost his wallet coming through  
6 the metal detector right here the same way you all come  
7 through, and he was paranoid that he was under investigation  
8 because of that.

9 Prior psychiatric issues. Spends two weeks, two weeks in  
10 the psych ward in Dorchester County, two weeks. That's where  
11 he made that statement that was played. Did the Government  
12 ever ask for consent to get those psychiatric records to see  
13 what the admission was all about or what's going on in this  
14 poor young man's head? Did you all get them in the exhibits?  
15 No. Two weeks.

16 The Government played -- or may play in rebuttal, a  
17 conversation when Al was wired up, and he's talking to Wane,  
18 and Wane doesn't know Al's wired up. This is July 18th, 2018.  
19 I don't have the -- oh, it's Government Exhibit -- put this  
20 down, 18.3T of the transcript. You're just going to get the  
21 recordings. If you want to hear the recording, you have to  
22 ask to hear the recording. I asked him about this and he said  
23 sometimes talk is just talk. And that's when Unc, Al is  
24 trying to get information out of him. Again, get information  
25 out of him. I think it was at that time when he mentions the

1 pillow and the child's head. We know. We know that there is  
2 no pillow. We know that from the forensics. We know that  
3 from the scene. Wrong. Lie. Exaggerating. Fantasy. He  
4 said, "The bitch had a whole brick in there, an MF-ing whole  
5 brick, a whole bird. Another exaggeration. CJ said it's  
6 about 80 grams, maybe 20 more after that.

7 He said he spent two hours in that place searching and  
8 searching and searching. Another lie, another fantasy. No  
9 one after 6:45 with two dead bodies spends two hours searching  
10 and searching and searching. "I mean, the boy got a half a  
11 brick." Another lie. Exaggerating, fantasy.

12 And the last whopper when Alfred says, "What about the  
13 gun? What about the gun?" And he said, "Man, that mother  
14 fucking gun is long gone, man. That shit is fuckin' somewhere  
15 in the" -- and I'm swearing, I'm sorry -- the mother f-ing  
16 water or damn near where in the mountains. He got rid of that  
17 bitch, scorched that bitch with something. I know he said he  
18 took that MFer apart."

19 Now, unless I was seeing things, Ms. Brusca showed you  
20 that gun, which wasn't scorched, wasn't in the water, wasn't  
21 torched, and wasn't taken apart.

22 All right. I asked Wane Briscoe -- simple question. I  
23 asked Wane Briscoe, and this says a lot about all of the  
24 Government's witnesses, a simple question. "Were you in the  
25 Glen Burnie area, Anne Arundel County for four hours before

1 you came to pick up Poo?" And he said -- looked at me. I  
2 mean, he normally took a long time to answer questions. When  
3 I said, you know, there's a difference between fantasy and  
4 reality, he took about ten seconds before he finally said yes.

5 So I asked him about the four hours. Now why? I'm not a  
6 savant. I don't -- I can't see things, but I can every once  
7 in a while stumble upon a record in the Government's exhibit  
8 which they didn't mention whatsoever, and you're going to have  
9 that -- you're going to get the whole pack of cell phone  
10 records back there, and it clearly shows, clearly shows his  
11 phone, Wane Briscoe's phone, going from Cambridge across the  
12 Bay Bridge, and you see where the phone stopped where number  
13 seven is and the time period there. When you take a look at  
14 that exhibits it's four hours. It's Exhibit 11 point  
15 something. I can't -- it's page 28.

16 Take a look at that exhibit, four hours. Government  
17 didn't bring it out. We asked them, and he lied. He lied to  
18 you, and then the crazy stuff is, you see the way the numbers  
19 go back. He comes back again, so then he's coming right back.  
20 And it gets even crazier, because I asked him, "How did you  
21 come to Baltimore? Did you go across the bridge or did you go  
22 up" -- I was really specific, because I, kind of, know the  
23 area.

24 "Did you go up through Elkton to 40 and then down 95?"  
25 He says, "Yeah, that's the way I came. You didn't go across

1 the bridge? No, I went the northern route." Yeah, northern  
2 route. Well, look. Look what it shows. Look which way he  
3 came, across the bridge, the same way he came earlier that  
4 day, the same way he came when he spent four hours in freaking  
5 Glen Burnie. They vouched for his credibility.

6 Terrill Harris, Sr., he does admit, obviously, it's  
7 truthful he goes with Junior. He's a Junior, that's the name  
8 they use for him, Junior, to pick up Andre at Perkins. What  
9 he tells you all and what he told Special Agent Weaver as well  
10 on 5/20, no talk about anyone being killed at Perkins or the  
11 car ride back.

12 He even tells you all that he's in the backseat with  
13 Andre on the car ride back, and there's no talk. Again,  
14 contrary to what Wane said three times in his Grand Jury.  
15 He describes the demeanor of Andre Briscoe. He was leaning  
16 back. He was playing, you know. He was in a party mood. Not  
17 like what the Government would describe, not like a man who is  
18 anxious, in a rush to get out of town. They stay there, they  
19 drink, they party, they test the drugs.

20 If you just killed somebody in Baltimore, you think you  
21 would want to get as far away as possible as fast as possible,  
22 but that's not what happened. He tells you that Andre is a  
23 Bible quoting man. He added some language to the effect that  
24 Andre, while quoting the Bible, said, "I done fucked up. "God  
25 is going to make me pay for this one."

1 And, again, the first time he ever mentions that, and  
2 this time period's important, May 27th through August 20th.  
3 At that point, there is a fairly intensive -- as you can see  
4 all of the dates on this investigation by ATF with all sorts  
5 of people, this whole crew, is getting subpoenaed to come to  
6 the Grand Jury, and the agents are going to investigate.

7 So at that point everyone is thinking, uh-oh, what's  
8 going on. And Terrill Harris, again, for the first time says  
9 what I just went through. And, again, no one else is present.

10 Tonya Harris, quite frankly, and honestly sometimes the  
11 Defense, sort of, can be honest, that Tonya Harris, she  
12 appeared to be the best Government witness of all of the  
13 family members when she took the witness stands. I just want  
14 to say she's a good witness. But I want you just -- and,  
15 again, we don't have that lie detector here. I want you just  
16 to look at what she said, the difference, the difference. And  
17 you're not going to have my slides back there with you, it's  
18 just going to be your memory and your notes.

19 The difference of what she says from May 26, 2020, to  
20 July 21st, 2020, to the same man, Agent Weaver. Never heard  
21 who could have done this. "Honest, if I knew for a fact that  
22 Tone or Yo did it, I would tell you straight up." She said he  
23 always got crazy nightmares and that -- that is the truth. We  
24 heard from Anthony, and now we know why.

25 She told you, never had nightmares before, and this is

1 the key, just take a look at this. He had a nightmare about  
2 Jonice, not Jonice, biting his dick off. And that's what she  
3 said, very specific, very graphic. And then he went on to  
4 say, and she said, Agent Weaver, quoting Andre, "I keep having  
5 dreams about Shorty. She bit my dick off. And then Agent  
6 Weaver says, "Who is Shorty?" And then Tonya Harris says,  
7 "Jonice. Jonice." And then what did you do? She said, "I  
8 just burst out laughing and went to bed."

9 What happens in between those two dates? She knows her  
10 family members are being subpoenaed to the United States Grand  
11 Jury. She knows that Special Agent Weaver started the  
12 interview with her. I'm not here to charge you right now.  
13 She knows that Wane, at least she appears -- that Wane  
14 Briscoe, she told you that cut his hair, that he was growing  
15 since he was nine to ten years old, because he thought he was  
16 going to jail and didn't want to be anyone's bitch.

17 She knows there was talk in the community like we heard  
18 from so many other witnesses, from her father, Terrill Harris,  
19 Sr., from George, from Tony, and most importantly, what she  
20 heard, and what she told you all on cross-examination is that  
21 she heard that Kizzy, Andrea Molock was talking to the Feds,  
22 and that her name, her name, Tonya Harris, was being thrown  
23 in.

24 She gets on that train right away. She caught that  
25 Government train. She's interviewed July 21, 2020. Just



1 look. Look. Look. Look how it changes. Starts again in the  
2 dream talking about, again, Jonice, and then supposedly Andre  
3 said, "Man, I woke up this morning in a real big sweat. I had  
4 a dream that Jen just reached up and grabbed my nuts." Look  
5 at the difference between the two. And then out of the blue  
6 Tonya says, "What did you kill her? And out of the blue he  
7 supposedly says, I did it. I did it. I did it." And then  
8 she says she was upset, she remembers that. She's crying, and  
9 she left with her boyfriend. Before, she's laughing and goes  
10 upstairs to bed. And now she's crying three months later and  
11 leaves with her boyfriend. The Government says, don't worry.

12 But what we do know? What we do know, that there's a  
13 family connection with those witnesses. Terrill is the dad.  
14 Tonya, daughter, Terrill Harris, Sr., Fatman, Jr., Wane, good  
15 connection to Louise Martin Boug, has coffee with Terrill, Sr.  
16 every Sunday. And I didn't mention how he uses -- how Wane  
17 uses Boug. I mean, that's just disgusting.

18 Again, we're talking about Wane. We could go on forever  
19 with Wane. You could only beat him so bad. He's using this  
20 woman to carry his drugs in her private parts, so he doesn't  
21 get caught. Well, he's using these statements to help himself  
22 out so he doesn't get indicted, because who on that charge is  
23 going to be an indictment that you have before you? Just one  
24 person, Andre Briscoe, none of these people.

25 Lastly on Tonya, she tells you all, "No Mr. Purpura, I

1 told them before that. I told them way before that about the  
2 dreams. I told Dickerson, Detective Dickerson."

3 Well, we know that Detective Dickerson was working this  
4 case right along with Special Agent Weaver. We know that if  
5 Detective Dickerson heard this, he would have told Special  
6 Agent Weaver, and Special Agent Weaver testified, no one told  
7 me that, because if someone told Agent Weaver that, he would  
8 have investigated it, so that's another lie. Once again, the  
9 truth never changes, but it does change with her.

10 The gun, Tariek, Tarrell, they are cousins of Kiara, not  
11 of Andre, that's the connection. Government played the call,  
12 maybe not the whole clip of the call. You'll have the clips  
13 back there. You remember the call, but in that call, in that  
14 call, Tariek tells Tarrell not once, but twice, "Go with her.  
15 Go with her."

16 The description, you have Mr. DaShields who we all  
17 believe and couldn't be a better witness. You have Mr.  
18 DaShields, he testifies that what he remembers is a wide nose,  
19 that's pretty dramatic, a wide nose. That's the person who  
20 got the gun. If you look at Andre, he has his mask on, but  
21 you can see the picture there, he has the opposite of a wide  
22 nose. He has a thin nose. He also said that the complexion,  
23 his complexion was a little darker than mine. Again, you look  
24 at Andre, doesn't fit the bill.

25 Out of the 30-plus pictures he looked at, he said -- even

1 the Government asked him a couple of times, yeah. This person  
2 here, Jaron Laws, looks most like the person. He had the  
3 photograph of Andre Briscoe. We know that from Special Agent  
4 Weaver. He looked at that photograph, didn't blink an eye,  
5 right past him. You know why, because Andre wasn't there. He  
6 sat right here on the witness stand in broad daylight, Andre  
7 Briscoe five feet away, walks right in and you're looking  
8 right at him. He's not going to confuse Andre Briscoe with me  
9 or Ms. Whalen, so he's looking at him, no recognition, no  
10 identification because it's not the guy.

11 The Government makes an issue about where Andre's phone  
12 is in the area. Well, we had the agent, Agent Wilder, and he  
13 said, Route 40 cuts right through there. That's the way you  
14 go from Perkins to the house. So if you go back and forth  
15 from Jen's to Kiara's or Perkins there, that's the route you  
16 take.

17 We also know it's a high drug area, so we don't really  
18 know what else the phone was doing in that area, except he's  
19 got a right to be there in that area, because that's the exact  
20 way he would go to both Kiara's and Jen's from Perkins  
21 Projects.

22 Last but not least, Kiara. I'm going to get to Kiara in  
23 a second. But what Kiara says about the gun itself is that "I  
24 brought the gun -- that I went down to Perkins. I went down  
25 to Ms. Jackson's apartment, Andre handed me the gun back,

1 wrapped in a shirt." That's what she tells you all.

2 You had Tiffany Jackson testify. The Government wants  
3 you to believe Tiffany Jackson. Tiffany Jackson told you all,  
4 under oath, she saw this woman Kiara, once before. This was  
5 the day she saw her, when Andre was there. She's never there.  
6 She had the gun. She kept the gun. She gave the gun back to  
7 the owner.

8 Moving as fast as I can. I'm sorry, I'm taking way too  
9 much time.

10 Ms. Whalen, how much time have I taken?

11 **MS. WHALEN:** You're good.

12 **MR. PURPURA:** Still good, okay.

13 If y'all need to stand up -- look, I couldn't sit there  
14 for an hour. I'll tell you what, normally when my priest is  
15 talking, I went and head to the back door most of the time,  
16 but I apologize. We just have to tell you what we think, and  
17 so feel free -- I mean, if you want to stand, just stand for a  
18 second.

19 **THE COURT:** No, I don't want them standing. They  
20 either stay seated or they stand.

21 **MR. PURPURA:** All right. I'm sorry, Judge.

22 **THE COURT:** Mr. Purpura, no disrespect, but I'll  
23 tell the jury what to do.

24 **MR. PURPURA:** All right, Judge. No disrespect.  
25 Sorry.

1           **THE COURT:** That's all right. No problem.

2           **MR. PURPURA:** Anyway, sorry if I'm --

3           **THE COURT:** That's all right. Take your time. No  
4 rush. Take your time.

5           **MR. PURPURA:** You know, with Kiara, it's just a  
6 beautiful example Ms. Whalen brought out, again, on  
7 cross-examination how a lie grows if you just look at this  
8 slide we have up on there.

9           So what happens on May 29th, 2015, there's a statement to  
10 Baltimore Police. And the first thing that Kiara says is,  
11 "I'm home." I have sex with Andre. I go to Tiera's, he goes  
12 to Perkins."

13           On February 24th, '20, the statement now increases when  
14 Weaver goes to interview her, Special Agent Weaver goes to  
15 interview her in Pennsylvania. Left for one hour, meaning  
16 Andre, got a bottle in his back pocket when he came back, and  
17 that's probably very consistent with Andre leaving the house  
18 at that point when we have that phone at that time.

19           Now, July 15th, 2020, there's an interview, first time  
20 with an attorney. Now she adds, Andre wants drugs from Jen.  
21 Now, she's interviewed on July 22nd, 2020, in what's called  
22 the pre-Grand Jury interview, before, and then there's a break  
23 because things aren't going that well, and then she realizes  
24 they have more information, and her story grows at that time  
25 that Andre came back now with two bags, and one had the

1 imprint of a gun. And she admits that she lied about  
2 15 minutes earlier when she talked to him, no mention of  
3 seeing the gun or getting the gun at Tiffany's, just that the  
4 bag had an imprint.

5 The investigator, she says nothing. Interview now with  
6 the second attorney present, Ruter, first time stated that she  
7 actually got the gun and that's because she heard the phone  
8 conversation played by the Government of Tariek Powell and  
9 herself. So she had to admit it and she admitted it at that  
10 time. First time it comes out March 8th, 2021. The story  
11 grows as we go along, and it grows as the noose is getting  
12 tighter around her neck at that time.

13 And finally, we know that she goes on June 18th, 2021 --  
14 she's born and raised in Baltimore, she told you that. She's  
15 arrested in Texas.

16 The interview with her attorney, Mr. Proctor, for the  
17 first time she says that Andre says, I'm going to rob and kill  
18 both, "and then she responds immediately, "Should I get a  
19 gun?" And that's the sequence of how her story grows, and at  
20 that point when she says that, at that point she gets her  
21 deal. And her deal is, she's facing life without the  
22 possibility of parole. Life without the possibility of  
23 parole.

24 And in addition, there's two mandatory minimum counts of  
25 ten years each, which means a mandatory minimum of 20 years

1 regardless. She's not facing life without the possibility of  
2 parole. She's not facing a mandatory minimum of 20 years.  
3 She's hoping to get out before her children grow much older.  
4 And I repeat, as I've repeated with every single witness, no  
5 one else was present when these statements were made, all five  
6 of the Government's witnesses.

7 About ten minutes left.

8 Ladies and gentlemen, this was not an act of robbery.  
9 This was an act of rage. CJ Williams said that she lived  
10 right there in Jennifer's house, so she knows the reaction of  
11 Jennifer. He described it as a toxic relationship. Probably  
12 the most poignant and poetic words by any witness in this  
13 particular case because it clearly was a toxic relationship.  
14 She admitted that she was jealous of Jen's popularity with her  
15 Cambridge family. She was jealous of Jen's looks, of her  
16 popularity. She admitted multiple prior confrontations. She  
17 was sickened and mad and angry that Jen made fun of her for  
18 having no money, and that she made fun of her not paying her  
19 20 bucks back for the Percocet pill.

20 She's in her house at 12 midnight, 26th going into the  
21 27th, and she's waiting for Andre to come back. The clock  
22 keeps on ticking. It's 1 o'clock, 2 o'clock, 3 o'clock,  
23 4 o'clock. Imagine the thoughts going through her head at  
24 that point. She knows Andre's at Jen's house, this woman she  
25 despises with the toxic relationship. She marches the

1 one-third of a mile to Jen's house, banging on the door so  
2 loud, so loud that 911 has to be called for. Ten minutes,  
3 yelling and screaming. It's so loud that Jen gets out a gun  
4 and states, "If she comes in here, I'll shoot her." That's a  
5 toxic relationship.

6 In your life, have you ever heard language like this? "I  
7 deleted the Jen off my Facebook page. I'm not talking to that  
8 bitch no more. I said I deleted that bitch off my Facebook  
9 page. I'm not talking to that bitch no more. We got into an  
10 argument. She told me she was going to get her connect, the  
11 boy CJ, said they were going to come up here, they were going  
12 to kill me and clean my body up, that CJ and her connect were  
13 going to kill her."

14 I said, "Okay, pull this car over right now, let's get  
15 out this and roll, let's fight." She said, "No, I'm too  
16 cute." I said, "Nah, bitch you ain't never been in a fight.  
17 You think I don't" -- "you ain't never been in a fight. You  
18 always used to get your ass beat just going to school. You  
19 ain't about this fucking life, bitch. Shit, I've been  
20 catching bodies since I'm five years old." I said, "Bitch,  
21 you ain't ever been in a fight." I said, "Stop living other  
22 people's lives. You know what I'm saying, you over here  
23 living somebody else's life." Again, she's talking about  
24 Cambridge, living my life. Coming to my home. Coming to my  
25 family. "You a phony ass bitch, stop living other people's



1 life, you know what I'm saying, like pull this fucking car  
2 over." That was May 1st. May 1st, 26 days before the murder.

3 May 9th, two weeks before the murder. "All my life my  
4 mother said she treated me so bad, and I let this bitch come  
5 in and she basically sabotaged my shit. I'm hurting. I'm  
6 hurting to a point it just hurt. Want something all your life  
7 and you finally get it, and some motherfuckin' slut ass bitch  
8 come in and sabotage it."

9 She goes on, "But yo, I put on all black last night,  
10 suited up, knobbed up. I went to that bitch's house. Feel  
11 me. I was in the backyard and front yard. I sat out there  
12 and tried it, how I could kill her, real talk, without getting  
13 caught. I'm not scared to hurt nobody. Killing is in my  
14 blood.

15 She goes on, "When this shit happened to me and I remove  
16 myself from the situation, I'm not scared, yo. Bitch had a  
17 gun on me, pull a gun on me," meaning Jennifer. "I've had  
18 guns pointed at my head for bullshit. I'm not saying I'm hard  
19 or nothing like that, but I'm crazy. I'm crazy, yo. I'm a  
20 crazy motherfucker."

21 She ends by saying, "Last night I put on all black and  
22 went to the motherfucking house and sat there. Shit. I tried  
23 to throw motherfucking toilet paper with gasoline, set the  
24 house on fire. It's two weeks before." The person that said,  
25 "I'm catching bodies since I was five years old" according to

1 Kiara is Jen. So they were both dangerous, and we know that  
2 Kiara had one, if not two guns -- or Jen had one, if not two  
3 guns. "I'm crazy. I'm crazy. You know I'm crazy,  
4 motherfucker." That's Kiara. "I'm not scared to hurt nobody,  
5 killing is in my blood." That's Kiara.

6 On the day of or day before or the day of, Bri -- it was  
7 the day of, May 27th, Brianna Street testified right here  
8 before you, ladies and gentlemen of the jury, that Jen told  
9 her that Kiara threatened to kill her, meaning Jen and her  
10 child, Tone Tone.

11 Toxic relationship is an understatement, but it's not  
12 for the Defense to prove anything. Andre Briscoe literally  
13 testified twice through the statements. June 5th, 2015, it's  
14 a statement that Detective Lewis took the witness stand on,  
15 but it wasn't played. The video and audio were not played.  
16 There was a transcript, but you all never received that  
17 transcript, Government's choice.

18 May 22nd, 2020, I think Detective Azur just sat on the  
19 witness stand while the statement was being played, he sat  
20 there. He had nothing to do, because obviously Special Agent  
21 Weaver took the statement, but Azur just sat there as they  
22 played the statement. Again, Government's choice. Sideshow  
23 Bob, I meant to mention it before, obviously, that's what CJ  
24 referred to Andre as, I mean, as a flunky.

25 When you heard that first statement, you got to agree

1 with me, you all sitting there June 5th, 2015, hi, hi, we're  
2 going to hear it now. We got two homicide detectives. We're  
3 going to hear them say something, at least something really  
4 big, like I did it. Like, an inconsistency that I was in --  
5 never went to Baltimore in my life or haven't been to  
6 Baltimore in a year. I didn't hear it.

7 What you heard, no matter how the Government wants to  
8 pick and pick and pick and pick at these statements, and  
9 you're going to have the 2020 transcripts, so -- not  
10 transcript, again, the tape. So listen to it again, and you  
11 can see how absolutely it is consistent.

12 Now, Andre Briscoe is there without an attorney. Never  
13 talked to an attorney. Didn't expect the police to be rushing  
14 into the house on June 5th, 2015. Didn't expect the police  
15 and to be taken down to Cambridge, but there he was being  
16 recorded. He waived his rights, didn't have to. He's  
17 experienced. We know that he's got prior convictions. He's  
18 been through the rodeo before, as they said. Didn't care,  
19 wanted to talk. Gave his grandmother's name, didn't remember  
20 the address, said Tiffany Jackson, Perkins, didn't remember  
21 the address, gave the correct phone number.

22 Come on. He's not happy, but he gave up. Got the phone  
23 number, Tiffany Jackson. Tiffany Jackson? Whoa, wait? Why  
24 would you give Tiffany Jackson's number up?

25 That's where you were when you had the drugs." He didn't

1 care because that's all it was was drugs. These are homicide  
2 cops. He had nothing to do with any homicide. So he gives up  
3 Tiffany Jackson, where he was, literally, a couple days ago.

4 ID'd the photo of K and Jen, said he met Jen around  
5 Valentine's Day. Based on the investigation, that's accurate.  
6 See her in Baltimore, Cambridge, one time a week, that's  
7 accurate based on the investigation. Messing with my cousin,  
8 Tony. That's accurate, based on the investigation. Things  
9 cooled off, that's between Tony and her. That's accurate  
10 based on the investigation. Admits coming to Baltimore on  
11 May 26th. We actually used the calendar, right there,  
12 May 26th, the very day. I mean, if you're going to give a  
13 phony statement or an alibi you're going to say, I wasn't in  
14 Baltimore. He admits it there. Right there, I'm there.

15 Admits that Kiara paid \$50 -- go back to why Kiara was so  
16 mad, she took \$50 of her hard-earned money, the girl didn't  
17 have a lot of money, paying for him to be there, and he's with  
18 some other woman.

19 Went to Jen's around midnight. Well, you have all of the  
20 phone records, that's absolutely accurate. Sat in the white  
21 chair. You got the pictures, that's absolutely accurate.  
22 Denied having sex. We got the autopsy report, you have -- the  
23 sheets have been examined, and then he wants to give up his  
24 DNA and his semen freely, all accurate.

25 He then discloses he says, "Kissing cousins, Kiara is

1 jealous." And then he said, "Don't let that get out that  
2 we're kissing cousins." That's what he's worried about. "She  
3 paid for me to get up there. I spend the night at Jen's," all  
4 accurate. Banging on the door, 911, derringer, all accurate.  
5 Left, went to Kiara's, accurate. Eventually back to Perkins  
6 at Tiffany Jackson's house. That's what he said. Accurate.  
7 Junior, Junior, Junior, where are you, Junior, my cousin.  
8 Government asked about Junior. We know who Junior is, "My  
9 cousin, picked me up, took me back to Cambridge."

10 Gave the detective the phone, he said he just rebooted  
11 the phone, meaning he just repowered on and off, that's all.  
12 You saw him turn it back on. Did you see the video on that?  
13 No, we didn't -- yeah, didn't see the video anyway.

14 Then here is the big one, what was Jen doing when you  
15 left. She was sleeping. Again, if you're going to steal the  
16 drugs, she's sleeping, just steal the drugs for God's sakes.

17 Then he goes on to say Tony's connect was Jen.  
18 Important, 2015, but the product was garbage. Garbage. You  
19 ain't killing her and a child for garbage. Stop dealing  
20 heroin. It's bad. All accurate based on the investigation.  
21 May 22nd, 2020, now when you're hearing that and you got the  
22 detective on the witness stand, and you've had -- we heard it.  
23 There is no video.

24 Now, you're really waiting for it. You're waiting for  
25 the punchline, you're waiting for, this is it, this is the big

1 moment. We're going to hear it now. We're going to hear  
2 them.

3 No flight. Arrested. No flight. Still no attorney.  
4 Five years later where was he? Was he in Texas? Was he in  
5 Alabama? Was he in California? Baltimore, working  
6 construction. Consents to the interview. Sure, he's  
7 aggravated and upset and mad. He's been through this multiple  
8 times. He keeps on saying, "I said this, I told you all. You  
9 all know this stuff already. Why are you repeating it?" Sure  
10 he's mad, because he's basically being accused of murder,  
11 again.

12 You read that. You look at that. You'll see. Does his  
13 story change? Not dramatically. Very little after five  
14 years. Why? Because the basic truth doesn't change.

15 When Andre Briscoe was arraigned, he said he was not  
16 guilty. He maintains that through June 5th, 2015, May 22nd,  
17 and today's date. He says he's not guilty because he's not  
18 guilty. He says he's not guilty because the Government hasn't  
19 proven its case beyond a reasonable doubt.

20 Thank you for your time.

21 **THE COURT:** Thank you, Mr. Purpura. Ladies and  
22 gentlemen, we've been going for over three hours except for  
23 one break. Your lunch has arrived, so we're going to take a  
24 recess. I think that we should just take about a 40-minute  
25 recess. Lunch is going to be in there. We'll take a recess

1 until 1:30, and we will start again.

2 I think -- quite frankly, counsel, I think we can  
3 probably just take a half an hour for you all to eat lunch. I  
4 think that should work. We're going to start at 20 minutes  
5 after 1:00. We're going to take a half an hour break for  
6 lunch, give staff a break. But then we're going to have  
7 rebuttal argument by the Government, and then I'll instruct  
8 the -- give you your instructions.

9 So this Court -- again, you should not discuss this case  
10 in any way. You shouldn't discuss what's been said by Ms.  
11 Brusca or by Mr. Purpura. Now you have to wait for the  
12 rebuttal argument by Mr. Budlow, and then you have to wait for  
13 my instructions, so you should not -- absolutely should not  
14 discuss this matter. Just have lunch and I'll see you all in  
15 a half an hour. We'll take a half an hour break.

16 THE CLERK: All rise. Court stands in recess.

17 (Jury exits courtroom 12:46 p.m.)

18 (Short recess taken.)

19 **THE CLERK:** Court resumes its session. The  
20 Honorable Richard D. Bennett is presiding.

21 **THE COURT:** All right. Thank you all very much.  
22 And with that, I see you had a nice leisurely lunch,  
23 Mr. Budlow, and we can proceed with that.

24 **MR. BUDLOW:** Exactly.

25 **THE COURT:** Ready to proceed. And we'll bring the

1 jury in.

2 Anything else before the jury comes back in? All right.  
3 All right. Here we go.

4 (Jury enters courtroom 1:35 p.m.)

5 **THE COURT:** Thank you, ladies and gentlemen. And I  
6 hope you enjoyed your lunch. And with that, we are ready to  
7 continue now with rebuttal by the Government.

8 Mr. Budlow?

9 **MR. BUDLOW:** Thank you, Your Honor.

10 Good afternoon. Ladies and gentlemen, it never fails,  
11 when all of the evidence, like it does in this instance,  
12 points indisputably, and without any doubt at one person, and  
13 that's the Defendant. The Defendant comes into court and  
14 points the finger at everyone else, and that's exactly what  
15 you heard for the last hour and 14 minutes.

16 Al Harris, Wane Briscoe, Terrill Harris, Tonya Harris,  
17 not CJ Williams, Baltimore Police Department, the ATF, the  
18 FBI, the Government. Nobody escapes the empty finger pointing  
19 of a cornered Defendant.

20 Now, the overview of the evidence, which you heard  
21 before, is exactly what I'm talking about, which shows you  
22 that all of it points indisputably and beyond all doubt at the  
23 Defendant. He had the motive, he wanted the drugs, he knew  
24 Jen was vulnerable. We proved that to you, his words proved  
25 that to you. He's the last person to speak to the Defendant.



1 I believe they seemed to be conceding that finally. It was a  
2 ten-minute walk away. He had the opportunity. He turned his  
3 phone off. He called for his ride. He fled to Cambridge with  
4 Jen's drugs. Make no mistake about it. And then he lied to  
5 the police over and over again, and he lied, as we'll discuss  
6 in a minute, about Jen. Not about other things. He lied  
7 about Jen. He confessed four times, and there were no  
8 eyewitnesses to this crime.

9 Well, there was one eyewitness to this crime, but he made  
10 sure there were no surviving eyewitnesses. And then he never  
11 picked up the phone, sent a text message, called Jennifer  
12 Jeffrey again. You'll see the pattern. They were in regular  
13 communication. He called her from his phone on her regular  
14 smartphone. He texted her on her regular smartphone. He  
15 called her and texted her from his phone to her flip phone,  
16 but after 11:41 a.m. on May 27th, 2015, when nobody else in  
17 the world knew that Jennifer Jeffrey was dead, he never called  
18 her again.

19 And despite all of that evidence, the Defense does what  
20 they do, and that is to attack the Government witnesses, and  
21 attack the investigators. But before we talk about some of  
22 the Defense theories, I would like to just maybe clarify a  
23 couple of the facts raised by Mr. Purpura.

24 Mr. Purpura says that the entire Government theory is  
25 that these are the same drugs, and that might be the grossest

1       overstatement we've heard the entire day. Those are the same  
2       drugs, but the theory is the Defendant killed Jennifer Jeffrey  
3       and K.B. to rob her, and to make sure there were no witnesses,  
4       that's the theory.

5             But we see why, because their Defense is that gray equals  
6       beige equals not guilty. I saw it. I watched it on the  
7       screen, they're two colors, I agree. I don't follow it. It's  
8       been years. I don't know if we care it's been five minutes,  
9       gray versus beige does not equal not guilty.

10            The Defense wants you to believe that Terrill Harris  
11       testified in this witness -- at that witness stand right now,  
12       in trial, and he said that dope was good. That's what the  
13       Defense said to you. Here is the official transcript of  
14       Terrill Harris, Sr.'s testimony. "And did you try it? Yes, I  
15       did. And how was it? It was okay." Not what Mr. Purpura  
16       said. His entire Defense is based upon it being the great  
17       heroin that clearly Jen wasn't selling. No, he wants you to  
18       think that Terrill Harris said it was good because that's  
19       their entire theory of the case.

20            Even the Defendant said in his interview years later he  
21       said, yeah, I could sell it. So this isn't a question of  
22       whether or not those drugs got people high, because you heard  
23       from multiple people that they tried the drugs, and it got  
24       them high. You heard from Terrill Harris, it was okay. That  
25       is consistent with everything that we -- you know, keep in

1 mind Terrill Harris testified that these drugs that were okay  
2 were at Tiffany Jackson's house where the Defendant had run to  
3 on the afternoon of May 27th.

4 The Defense also says to you, well, we know somehow  
5 magically what was the content of that last call. Mr. Purpura  
6 said, and he does say, maybe the Defendant told her he was  
7 going to Perkins, maybe. That is rank speculation and you  
8 will hear an instruction from Judge Bennett that tells you,  
9 that's exactly what you don't do in this context, you do not  
10 speculate. Because actually what you have is evidence about  
11 what they would have been talking about that day, because you  
12 see in the phone records they're texting back and forth. And  
13 then there is that call.

14 What's the testimony about what they were planning to do  
15 that day? Kevin Wilder testified that he was told by Jennifer  
16 that she was giving him a ride to Cambridge that next day, the  
17 day that she was killed, May 27th, 2015. And then you heard a  
18 jail call where Jen told CJ the exact same things the night  
19 before. She said she's giving Poo a ride for \$50 to Cambridge  
20 the next day. That's what they were discussing. Not what  
21 they say maybe, and they speculate. They were discussing that  
22 ride, but we now know, you now know Jen never gave the  
23 Defendant that ride. He had other plans.

24 Mr. Purpura talked to you about dreams and there's been  
25 some discussion in this case about dreams, nightmares, and

1 it's all based on that recording, right, there's other  
2 testimony about the Defendant has nightmares of Jen grabbing  
3 his privates, and this is where he then goes into a  
4 confession. And the Defense would have you believe that those  
5 nightmares aren't about Jen, so all of those witnesses are  
6 lying, this is not Jen, but they're about something else, some  
7 incident of sexual molestation when he was a child, which if  
8 it's true, it's awful, and he says it on the call.

9 Now, remember what does Al Harris say to him on the call,  
10 "I didn't know that," but it's on a call. But what I want to  
11 point out to you is that unlike what Mr. Purpura says, which  
12 is that there is evidence that the dreams are related to this  
13 prior incident, is not in evidence. The Defendant doesn't  
14 even connect it in his own words. He separately talks about  
15 the dreams. Later, in the same recording, he mentions that he  
16 had been abused as a child. He does not say, "And those are  
17 the nightmares that you and I were taking about five minutes  
18 ago."

19 So there is no evidence drawing that connection, that's  
20 the Defendant's speculation. The evidence is that he had  
21 dreams and nightmares or that he was haunted by what he did,  
22 as he should have been.

23 Now, you have heard, I will call it criticism of the  
24 Government's case, that the Government didn't play all of the  
25 recordings. They didn't play the whole -- for example, the

1 whole recording from June the 5th in Cambridge, but you heard  
2 the uncontradicted testimony of Detective Brian Lewis, and he  
3 told you that recording was very hard to hear. Each word and  
4 each sentence, he had to go back and forth, and back and  
5 forth, and it took him hours just to come up with a portion of  
6 the transcript.

7 So Mr. Purpura is right. We could have, while Detective  
8 Lewis sat on the witness stand, played that multiple times  
9 over and over again so that you could hear every word, but  
10 instead he summarized it for you, and he was, just like every  
11 other witness in this case, subject to cross-examination. So  
12 you were able to determine the truth of what Detective Lewis  
13 said the Defendant said. And I suggest to you that that  
14 testimony from Detective Lewis about the Defendant's conduct  
15 and where he went, which we'll talk about later, his dealing  
16 in drugs with Jen and CJ, is uncontradicted. Uncontradicted  
17 by Detective Lewis's testimony, uncontradicted in this entire  
18 case, but we could have spent another week in trial, true.

19 Ladies and gentlemen, the evidence is, and the way it  
20 comes out is that the investigators in this case, they do  
21 their job and they follow the evidence. There is nothing  
22 convenient. There's nothing -- oh, I did want to point out,  
23 the Defense talks about exhibits that the Government didn't  
24 highlight for you. They're Government Exhibits, so I don't  
25 know what he means by highlight, we put them into evidence,

1 they are Government's Exhibit. So you can't argue that the  
2 Government is hiding the evidence that they put into the  
3 trial.

4 But what did the investigators do in this case, they  
5 followed the evidence, there's nothing sinister, it's  
6 old-fashioned hard work, and the evidence over and over again,  
7 pointed to the Defendant. That's not convenient, that's just  
8 the truth, that's just following the evidence. You heard  
9 about interviews, the obtaining of phone records, physical  
10 evidence, and you saw where the Defendant was on what days.  
11 You saw his cell phone activity. You saw the glocks. You  
12 heard from witnesses. You heard from his family. All of that  
13 pointed to the Defendant.

14 You even heard that the detectives followed up on all of  
15 the ridiculous tips that we heard about in opening statements  
16 and through the testimony and cross-examination of Detective  
17 Lewis, people with firsthand knowledge. They followed up on  
18 everything, they looked for corroboration and they continued  
19 to follow the evidence, and the evidence continued to point to  
20 Andre Briscoe.

21 Now, the Defense says, well, there is nobody who puts  
22 Andre Briscoe in the house at the time of the murder, there is  
23 no witness. So what they're saying is there is no eyewitness  
24 to the crime, and they're right. The Defense says there's no  
25 eyewitnesses, and they say you should have more.

1 Ladies and gentlemen, common sense would tell you that  
2 one -- when one is going to do the dastardly deed that the  
3 Defendant did in this case, they're not going to do it outside  
4 in broad daylight in front of witnesses. They're going to do  
5 it inside, and like the Defendant did, sadly to eliminate, and  
6 kill the witnesses.

7 The Defense certainly could not be suggesting that if the  
8 Defendant committed this crime, and there were no witnesses,  
9 because he arranged for it to be that way, that he walks off  
10 scot-free. It's not that easy. And, of course, you know  
11 there were eyewitnesses to the crime, you know, exactly what  
12 you will hear, just like you heard with the confession,  
13 they're not credible, they're not consistent, and we'll talk  
14 about that in a moment.

15 The Defense says -- well, first of all, the Defense has  
16 no obligation to have a theory, to put on a Defense, to  
17 question witnesses, they have no burden whatsoever. But it's  
18 fair to say, what is the Defense? Is it that Kiara Haynes did  
19 it, or is it that Kiara Haynes and Tarrell Powell did it, or  
20 is it that Kiara Haynes and Jaron Laws did it? It's a little  
21 unclear based on what we've heard here today and throughout  
22 this trial.

23 But are they really arguing that Tarrell Powell could  
24 have been the fam or the blood that Kiara Haynes was talking  
25 about on the phone? I mean, they completely ignore that part

1 of the call. Tariiek says, "Tarrell you should rock with her,"  
2 or "roll with her." And what does Tarrell say, "No way."  
3 Like, it's not even close. They don't discuss it again.  
4 Tarrell says, "I'm not doing" -- "I'm not part of that. I am  
5 not going," and you have the call, you listen to it, he's not  
6 going.

7 They also ignore the testimony of Martin DaShields, and  
8 they ignore the testimony that puts the Defendant in Martin  
9 DaShields's car. Martin DaShields testified, and this is just  
10 with respect to Tarrell Powell. Picks him up in Perkins  
11 Projects, with Kiara Haynes, there's another person. We know  
12 there's cell towers, which the Defendant knows through calling  
13 patterns, and those are the Defendant's own words.

14 And they drive to the intersection to get a gun, and the  
15 two of them get out, get the gun, and the two of them came  
16 back. They got the gun from Tarrell Powell, that's not even  
17 being contested. So there cannot be any legitimate suggestion  
18 that Tarrell Powell is in any way involved in this crime  
19 outside of his role of supplying the gun.

20 Ladies and gentlemen, those are facts that are just  
21 simply not in evidence, this is pure speculation.

22 Defense says, well, Kiara Haynes is not a credible  
23 witness. Kiara Haynes lied and her story evolved, and she has  
24 a history of lying under oath. And she has jail calls where  
25 she expresses disdain, to say the least, for the victim in



1 this case. It's true. All of it's true. But the first thing  
2 I want to tell you is you do not need the testimony of Kiara  
3 Haynes at all in this case. You can ignore her testimony.

4 I don't think I mentioned it in opening, you have more  
5 than enough evidence beyond any doubt, based on all of the  
6 other evidence in this case. Statements to others.  
7 Statements to the police. His acting with a guilty conscious  
8 afterwards, cell tower data, all of that which I'll go  
9 through.

10 You can completely disregard the testimony of Kiara  
11 Haynes. But I suggest to you, you make that decision. Don't  
12 let the defense make that decision for you. Don't let me make  
13 that decision for you. You evaluate her testimony, and, of  
14 course, given her history, carefully. Any fact of her  
15 testimony, make sure it's corroborated. Make sure it makes  
16 sense. I think if you do that, you'll come to your own  
17 opinion.

18 Now, Kiara Haynes, as I said in opening, was jealous.  
19 She was angry. It was about men. It was about drugs. All  
20 true. But even the Defense didn't argue to you directly that  
21 she pulled the trigger. Yes, there is a jail call where she  
22 says, "killing is in my blood." And look, she's guilty, she  
23 pled guilty. She had motive, and she acted on it. But they  
24 leave out the part of the call where she says, "I'm just  
25 ranting. I just want you to say I'm right." Listen to the

1 call. I'm not making those words up. That is a disturbing  
2 rant, no doubt about it, and we should not judge people based  
3 on how we speak, right? By any standards, it's a pretty  
4 disturbing rant. But then she says, "I'm just ranting." And  
5 he says, "What do you want from me?" She says, "I just want  
6 you to agree with me." She's expressing herself in ways  
7 different than most of us, but she does say that in any event.

8 Ladies and gentlemen, Kiara Haynes did not put that gun  
9 to the temple or the cheek of her godson Tone Tone, and pull  
10 the trigger. She's guilty and she will face a sentence before  
11 Judge Bennett, but there is no credible evidence that she did  
12 that.

13 She didn't have the motive to do it. The Defendant, who  
14 needed no witnesses who can be identified, who was about to  
15 get what he thought would be the biggest drug score of his  
16 life, because he didn't want to work for those drugs, he  
17 wanted to steal them. The drugs that even he said they sold,  
18 they weren't great for being stolen, he wanted it free, but  
19 Jen knew him, and Tone Tone knew him, and there couldn't be  
20 any witnesses, and Kiara, well, just the truth.

21 Now, the other thing is the witnesses in this case are  
22 his close family, the family that love him, that grew up with  
23 him. They were raised with him and they dealt drugs with him.  
24 And all of those witnesses on that chart that are right there,  
25 they're all lying, according to the Defendant, to put him in

1 jail to protect their distant cousin that they just met. Why?  
2 Is there a shred of evidence in this case of why they would  
3 lie to put the person who is uncontradicted, they love, they  
4 have a close relationship with? There's no evidence before  
5 you. It doesn't make any sense. They would not protect  
6 Kiara.

7 So the Defense says, it's not a lie. What happened to  
8 the entire opening statement that you would have all of this  
9 evidence that basically everybody in Baltimore City had a  
10 motive to kill Jen Jeffrey. BGF, Bloods, CJ Williams with the  
11 shootout, and that was a lovely witness. Of course he's  
12 involved. How do you know he's involved? The drawer was  
13 open, the room was disturbed.

14 According to a jail call, there were 80 grams of heroin  
15 at her house. CJ Williams told her, 80, 90 grams, go get it,  
16 take it back to your house, you know they were there.

17 Brianna Street testified Jennifer threw her a bag of  
18 drugs. I know Brianna didn't say it was drugs. We all know.  
19 Black bag, heavy in weight to her, she didn't want to look in,  
20 she said, put it up, bag of drugs. Even the Defendant said,  
21 he was aware, in his ATF interview, he was aware that Jen had  
22 stuff to move. And he turned up with gray or beige or brown  
23 drugs that night. And you know what, there is no evidence in  
24 this case, except his own self-serving statement that he has  
25 any source of heroin in Baltimore, except his plug. And we

1 know who his plug is, Jennifer Jeffrey.

2 And the last reason why you know it was a robbery,  
3 because there were no drugs in the house. Police didn't find  
4 them. Brianna Street told you they weren't there.

5 Now, the fact that there was no ransacking throughout the  
6 house doesn't mean that there wasn't a robbery. There was  
7 ransacking. Brianna Street told you that's not how her room  
8 looked, but it was precise ransacking, because the Defendant  
9 went there that night to butter up Jen, and to get  
10 information. And you know that happened for a variety of  
11 reasons, because Brianna Street testified that after she  
12 learned that Poo was coming over, Jen came up and said, give  
13 me those drugs back. Again, she didn't say "drugs," give me  
14 that back. She gave her the bag.

15 She went downstairs while the Defendant, by his own  
16 admission, was in the house. Now, what reason is that?  
17 Remember, she's his plug. He knows she's moving weight for CJ  
18 to get CJ out of jail, and they wanted him to do it. She  
19 showed him the drugs. This is it. This is the 250 grams that  
20 he's been telling people about. He sees the drugs, he knows  
21 she goes upstairs with the drugs. He hears her talk to  
22 Brianna. He might have been on the couch and heard it. He  
23 might have been at the bottom of the step, because common  
24 sense would tell you, Brianna is in her bed. She's dealing  
25 with Jen, she cannot see past Jen down to the bottom of the

1 stairs, so he's fully aware of that. So yes, it was a  
2 robbery.

3 The Defendant was in the car with Martin DaShields. His  
4 own statements made that conclusive. You heard argument today  
5 that it might have been someone else. Yes, Martin DaShields  
6 looked at a picture of somebody in that book named Jaron Laws,  
7 and you know why he was there, because he was involved in the  
8 early interviews by Detective Lewis. And he said, that guy  
9 looks, kinds of, familiar or words to that effect. He did not  
10 say, "That's the guy," right? He didn't. And the Defense in  
11 opening, he did not identify him in the courtroom.

12 Can you imagine if I would have asked that question while  
13 the Defendant is sitting there as the only person in the  
14 courtroom? Does that sound fair? Do you think that would  
15 have gone over?

16 Kiara Haynes testified that was the Defendant in the car,  
17 and you have corroboration of that. You have conclusive  
18 evidence that that was him, because in his statement to  
19 Detective Lewis on June 5th, and his memory was great. 2015,  
20 what did he say? "Well, I was at Kiara's," cell towers put  
21 him at Kiara's. Kiara and he went to Tiffany Jackson's, cell  
22 towers put him at Tiffany Jackson's. Then, of course, you  
23 know there's a phone call to one of the Powells.

24 At that almost precise moment, the car -- or I'm sorry,  
25 the Defendant's phone moves back west. The Defendant says,

1 "Ki didn't want to go home alone, so I took her home." He's a  
2 nice guy. He's got a lot of chivalry, he wanted to make sure  
3 she wasn't alone, those are his words, and he dropped her off  
4 and his cell phone records show East Baltimore Edmondson and  
5 Warwick, Kiara Haynes. And then he said, "I dropped her off,  
6 I went to Jennifer's." His phone records show him at  
7 Jennifer's all night.

8 So there is no legitimate dispute that he's the person in  
9 the car. And, of course, that's why the Defense tries to  
10 argue that Jaron Laws rather than the Defendant in the car.  
11 What do we know? Kiara and the Defendant, according to Martin  
12 DaShields talked about a drug score, and they're going to get  
13 a gun.

14 Now, I may have heard the defense argue that Tiffany  
15 Jackson was both one of the most credible witnesses here, and  
16 that it could have been a totally different day that she was  
17 referring to when she testified that the Defendant came over  
18 sweating, out of breath, holes in his clothes, changed his  
19 clothes, angry, pacing, muttering, and he wouldn't answer  
20 questions.

21 But she also said it was the last time he was at her  
22 house before noon, right? She also said he was there from  
23 early afternoon until sometime close to midnight. And that  
24 she said he said to her he was moving without telling her  
25 prior to that he was about to move. She knew he was generally

1 going to move. Then he said he's moving to Cambridge.

2 What did the cell tower record show? He's shows up at  
3 her house 1:30, he's there all day, around 11:30, he's calling  
4 Wane back and forth all day. He goes to Cambridge, and guess  
5 what, he never went back before he was arrested.

6 So there's no doubt about it, Tiffany Jackson told you  
7 about the day Jennifer Jeffrey and Tone Tone were killed.  
8 They're found on the 28th. They're killed on the 27th, and he  
9 shows up on the evening of the 27th, that's what his cell  
10 phone records show, there's no doubts about it.

11 According to the defense, both in opening and throughout  
12 the trial and again today, instead of giving all of these  
13 statements to the police, and he's being forthcoming. He's  
14 not running. He's cooperative. He gives voluntary DNA. He  
15 provided his phone voluntarily. He's just not worried about  
16 the murders, that's what the defense would have you believe.  
17 But let's take a little bit of a closer look at that, because  
18 Al Harris testified that he saw the police before the entry,  
19 and he gave the guys inside time to get ready. And they went  
20 into the back, and he gave the drugs, and then the Defendant  
21 was out. So sure, he knew they were coming and he knew his  
22 drugs weren't there.

23 In his statement to law enforcement -- this is one of  
24 those where I'm not even sure if we were in the same courtroom  
25 for the past two weeks when I heard Mr. Purpura telling you

1 about how honest the Defendant was.

2 The Defendant did nothing but lie about his interactions  
3 with Jennifer Jeffrey when he spoke to BPD and when he spoke  
4 to the ATF. He said he never talked to Jennifer after leaving  
5 her house. This is on June 5th. He just talked to her, it  
6 had been less than a week or about a week, and he said, no, we  
7 didn't talk. He said, "I'm at Tiffany's before noon." He's  
8 just being helpful, just happens to mention that he's at her  
9 house before the time he knows she was killed. And he says,  
10 "I stopped getting drugs from Jen and CJ well before the  
11 murders."

12 Now, you know that's demonstrably false, because he's on  
13 a jail call with CJ where he's saying, I'm still hoping to  
14 mess with you. I'm still hoping to sell drugs with you. It's  
15 clear as day. Those are all lies that he made to BPD.

16 To ATF he said, why didn't I just spend the night at  
17 Jen's. Time has moved on, his memory is not as good, so he  
18 doesn't remember what he told to Baltimore City Police  
19 Department. He says -- he's positive -- remember in opening  
20 the defense said, well, it's been a while, maybe he didn't  
21 remember whether or not he spent the night, but you recall,  
22 you heard this interview. When he was first asked, did you  
23 spend the night he said, no, I didn't spend the night. I  
24 spent the night at Kiara's.

25 Later on in the interview, Special Agent Weaver



1 mentioned, again, that the Defendant spent the night, and he  
2 jumped in definitively, no, no, no, I was home. I was back at  
3 Kiara's, I did not spend the night. Again, he's distancing  
4 himself from the victims. And, of course, just like with BPD  
5 he said, well, I wasn't dealing anymore, the drugs weren't any  
6 good, we were done. We even heard in opening that he admits  
7 that he was willing and trying to get with CJ and continue to  
8 sell them.

9 And really, the most telling of all of his statements,  
10 and then I'm sure you noticed it when listening to that  
11 recording late last week, is the story that he told about  
12 Kiara, that her and Jen were like still good friends. They  
13 had some moments, that's how women are, that's how he  
14 described it. Like, they're fine.

15 The Defense has spent the whole trial explaining to you  
16 that Kiara Haynes was out of control, that she was angry. She  
17 was homicidal. She was losing it outside of her house the  
18 night before. They called the police, she was screaming.  
19 Most of that is true, so if that's true, and if the Defendant  
20 knows it, right, and he's being asked about those days and  
21 those very important hours, and he's being asked about the  
22 relationship between a woman that he knows is dead, and his  
23 second cousin, why doesn't he say, "Yes, it was bad. She was  
24 out of control. She was homicidal." Because if he says that,  
25 what are they going to do, they're going to talk to Kiara, and

1 that's the last thing that Andre Briscoe wants to have. He  
2 does not want the police anywhere near Kiara Haynes, so he  
3 protects her.

4 Mr. Purpura says that the Defendant's testimony was that  
5 he rebooted his phone. It's true, he used the word  
6 "rebooted." I don't know if he's an IT specialist. I don't  
7 know if he knows the difference between reboot and reset, but  
8 what I do know is that Detective Lewis testified, the context  
9 of that comment was, can we see the text messages? And the  
10 Defendant said, I just rebooted my phone. He's telling  
11 Detective Lewis there are no text messages. So I understand  
12 what Mr. Purpura is saying. When I reboot my phone, it does  
13 not delete text messages. That's not what Andre Briscoe was  
14 saying, Andre Briscoe was saying, there aren't any text  
15 messages. So I don't know if he rebooted, deleted or reset,  
16 but his message to Detective Lewis was clear.

17 So it's not just that he lied, look at his conduct. No  
18 phone activity. No Facebook activity showing up at Tiffany  
19 Jackson's house. This is not evidence consistent with  
20 innocence. He says to Kiara, through somebody else, get rid  
21 of your phone. Why is she's getting rid of his phone -- her  
22 phone if they haven't done anything wrong?

23 He tells relatives, I don't want to talk about it. He  
24 sends a letter saying, the situation, we shouldn't talk about  
25 the situation in the past. Look, the Defendant thinks he's

1 smarter than the police, right? He turned off his phone for  
2 over an hour right before talking to Jen. He stopped using  
3 Facebook. He didn't realize that to you, turning off your  
4 phone right before a murder, that is evidence. That doesn't  
5 hide evidence, that's evidence. He didn't realize that cell  
6 phone companies keep cell tower locations. He didn't realize  
7 that his location right before, and right after the murders in  
8 walking distance to the victim's house, even if his phone  
9 wasn't used between is evidence.

10 He thought his family would never, ever testify against  
11 him. He thinks he's smarter than everyone. He also didn't  
12 realize that just coming in here and saying Kiara Haynes was  
13 mad at Jen wasn't going to be enough to get him an acquittal.

14 Mr. Purpura argues to you that the Defendant, if he was  
15 really going to kill Jen and steal these drugs, or just steal  
16 the drugs, he just would have taken them that night because he  
17 was there the evening of the 26th. He knew where the drugs  
18 are, true and true, he could have just taken the drugs.

19 So he couldn't have just taken the drugs, because  
20 although CJ Williams was in jail, CJ Williams wasn't in jail  
21 forever. And the Defendant wasn't willing to face CJ Williams  
22 when he got out of jail, and the Defendant was told -- when  
23 Jen told CJ Williams, oh, remember those 80 grams or those  
24 90 grams, well, guess what? The Defendant took them from you.  
25 So that's a fiction. That's not happening.

1           Second, could have just killed them that night, right?  
2       Wrong, because what do you know, Brianna Street and her  
3       one-year-old daughter were in the house. So unless the  
4       Defendant was going to kill four people, two women and two  
5       children he knew very well, because he heard Brianna yell to  
6       Kiara, "I got to work tomorrow." And they're there, so he  
7       knew, I'll come back tomorrow. But it makes no sense that he  
8       could have committed this robbery or the murder that he had to  
9       wait for the next day. And that's why he was mad at Kiara.

10           He was mad at Kiara. He's telling her to go apologize,  
11       because she's messing things up and she's drawing attention.  
12       And you can see it did have that exact effect. That call at  
13       5:00 a.m. left a record, and that record lead to the  
14       Defendant. It didn't get to him all that fast, but it got to  
15       him eventually.

16           The Defense says, well, you know, Wane's lying because he  
17       didn't -- there's no evidence of a cleanup. There's no  
18       evidence of a pillow, but Wanes not lying, the Defendant may  
19       have lied to Wane, because remember what's Wane's testimony,  
20       "The Defendant called me, needed a ride, and I said no."

21           So sure, the Defendant in another call maybe says, well,  
22       I cleaned up. It's all good. He's got to convince Wane it's  
23       worth his time for the five grams of heroin to come get him,  
24       so it's not Wane that's lying, it's the Defendant that's lying  
25       to Wane. And that's assuming there was no cleanup. Remember,

1 the drawer is partially closed. Maybe the Defendant tried to  
2 close the drawer, but didn't close it all the way in a rush.  
3 There's no prints on any of the drawers. Whoever killed  
4 Jennifer, and we know that the Defendant had to use a door to  
5 get in and out, but there's no prints there, so it's very  
6 possible that he did clean up.

7 Mr. Purpura, the Defense says, well, the crime might be  
8 on video, isn't that camera on? If only the Government wasn't  
9 so bad at their job, if only BPD would have gotten the video,  
10 if only ATF would have called Comcast. Ladies and gentlemen,  
11 this is Government's 1.25. This is the Comcast bill that was  
12 found at the Defendant's [sic] house. In addition, Mr.  
13 Purpura clearly read it, because he read some of it to you.  
14 But he left out the part where it says under Xfinity Home,  
15 package includes 24/7 central station security monitoring  
16 services, basic video monitoring, paren, live video only.

17 You're going to have this. You're going to have a  
18 picture of it. We could have called Comcast. We could have  
19 called every relative on that chart. We could have played  
20 every recording, every jail call. We could have been here for  
21 three more weeks. The document says, live video only. There  
22 is no server with video on it. There's no service that ever  
23 recorded anything that was in their house. You had testimony  
24 from two witnesses that the videocamera didn't work anyway.

25 So yeah, I guess we could have brought in somebody from

1 Comcast to say, the non-functioning videocamera didn't retain  
2 video.

3 All right. My last topic, is the credibility of  
4 witnesses. The Defendant has argued to you, I would suggest,  
5 these are bad people, and you shouldn't believe in them  
6 because they're bad people. They do drugs, they sell drugs,  
7 they lie about doing drugs, lie about selling drugs.

8 Ladies and gentlemen common sense tells you, when you  
9 have a drug-related murder in Cambridge or Baltimore City,  
10 these are the witnesses that you would expect. Witnesses to  
11 crimes are real people, they're going to be people the  
12 Defendant knows, the Defendant hangs out with, the Defendant  
13 does business with. Your common sense tells you that these  
14 witnesses are exactly who you would expect them to be.

15 The Government did not pick these witnesses, the  
16 Defendant picked the witnesses. He decided who to hang out  
17 with. He decided who to love. He decided who to sell drugs  
18 with, and he decided who to confess to.

19 When you're reviewing their testimony, judge their  
20 credibility based on what you saw. Your observations of them  
21 on the witness stand, not what the Defense tells you.  
22 Consider their prior statements under oath, their recordings,  
23 their testimony, all of this, but you saw in person, and you  
24 listened to their testimony. You are the judges of their  
25 credibility.

1           Now, I see a lot of you taking a lot of notes. I hope  
2           your handwriting is better than mine, because I've tried to  
3           read what the witnesses said. But I think that you will see  
4           that as jurors, your job is very much like witnesses are, and  
5           this is what I would suggest to you. It's more in theory than  
6           reality, but you can do it.

7           When you go back into that jury room to deliberate, place  
8           one of the jurors at the table and have the other jurors say,  
9           tell me what you saw for the last two weeks, and then go to  
10          another juror, and then do it to another juror. And what  
11          you're going to see is that they're all going to have slightly  
12          different versions of what's going on in this courtroom, in  
13          that witness stand, the lawyers and judge, the gallery. But  
14          what you're also going to see is that each of those jurors is  
15          going to tell you what they remember that was important to  
16          them. And that's what being a witness is just like that, the  
17          witnesses are going to remember what's important to them.

18          There's never been a criminal trial where every witness  
19          got on the witness stand, and didn't say anything inconsistent  
20          with something they said previously, something another witness  
21          said, because they're human beings. If we called in witnesses  
22          like that, the Defense would say, oh, they're coaching their  
23          witnesses, they're like robots. We don't call robots, we call  
24          human beings, and human beings remember what's important to  
25          them.

1           The Defense is, well, these confessions, there was nobody  
2       else around, they were always alone. Well, again, use your  
3       common sense. The Defendant has committed, and is struggling  
4       with the most dastardly deed of killing an innocent child.  
5       He's not going to stand out in the street where he's selling  
6       drugs with all of his cousins and tell everybody at the same  
7       time, he's going to tell them in a moment of weakness at the  
8       kitchen table, along a drive in somebody's house when he's  
9       drunk, when he's high, when he's just woken up from a  
10      nightmare. That's what your common sense tells you. He's not  
11      going to tell a group.

12           I want to make a distinction between Kiara Haynes and  
13      every other witness in this case. Kiara Haynes is a  
14      cooperator. She pled guilty. She's going to ask for leniency  
15      based on her testimony, put her over here. That doesn't apply  
16      to any of these other witnesses. They're witnesses. They're  
17      not getting a break. They're not charged with anything.  
18      They're witnesses.

19           Mr. Harris, after providing honest information without  
20      any promise of any benefit -- in fact, he tried to get a  
21      benefit and BPD said, no. They didn't give it to him. He  
22      came forward again with the same information. And then after  
23      he gave all of that information, Special Agent Weaver said --  
24      what I think that you all in hindsight will realize was a  
25      brilliant decision -- "Will you work undercover? Will you try



1 to get recordings of your cousin saying some of the things to  
2 you that you told us he said already? Like the dreams and  
3 like the drug dealing?" And he did just that, and he got paid  
4 for it. But you know what? That's proactive undercover work,  
5 and it's dangerous. And law enforcement doesn't ask people to  
6 do that every day. It's an obligation to testify truthfully.  
7 But if you're going to ask a witness to do something  
8 dangerous, especially a witness like Al Harris, you have to  
9 give them a benefit. But don't throw a connection between  
10 that benefit, and those undercover recordings, which are  
11 corroborated by the Defendant's words, and the information  
12 that Al Harris had already provided twice, and has since  
13 testified to consistently.

14 I'm going to go through witnesses, but the overarching  
15 theme for all four of these witnesses, Wane Harris, Al Harris,  
16 Terrill Harris, Tonya Harris, Wane Briscoe. There's too many  
17 Harrises. None of them have a motive to lie. The Defense has  
18 pointed to nothing credible in this record that would provide  
19 a motive for any of them to lie against their cousin, Andre  
20 Briscoe.

21 Again, you saw them testify. Wane Briscoe's Grand Jury  
22 exhibit, as I was referencing earlier, his Government's  
23 exhibit. Wane Briscoe does not have the Huntington's disease  
24 that Mr. Purpura asked him about. He testified that he  
25 doesn't have the symptoms. He testified that he got tested,

1 and it was negative. So what does that have to do with this  
2 case? Nothing.

3 I'm speaking "him." So Wane Briscoe was in Glen Burnie  
4 for four hours, and either doesn't know what he was doing, or  
5 doesn't remember what he was doing, and what does that have to  
6 do with this case, because what we know is Wane Briscoe was in  
7 Glen Burnie or Cambridge at the time the Defendant killed  
8 Jennifer Jeffrey. He's not part of the murder. What was he  
9 doing? He was probably buying drugs. Wane Briscoe told you,  
10 he couldn't have been more forthcoming, that's what I did in  
11 2015. I was buying drugs. I was selling drugs. I was  
12 packaging drugs. There is nothing memorable about buying  
13 drugs in 2015 when you do it every day. There is something  
14 memorable about your first cousin telling you that you  
15 committed an execution murder of a seven-year-old to keep him  
16 from testifying, that is memorable. And that's what you would  
17 expect him to remember. He was always unsure of times. The  
18 phone records are how you figure out times. Just like how we  
19 know Tiffany Jackson's story when it occurred was on the night  
20 of the murder, Wane Briscoe was unclear of a lot of time. He  
21 actually said, daytime or nighttime occasionally, but if you  
22 look at the phone records and you look at his testimony,  
23 you'll see how it tells the story the exact same way. And  
24 what was he clear about. He knew the order of the calls and  
25 he knew the substance of the calls.

1           Look at Government's Exhibit 11.2 that Mr. Purpura and  
2           Ms. Brusca referenced. There's 52 calls between them in less  
3           than two days. The nighttime versus daytime come get me call.  
4           It establishes the exact pattern. There was missed calls.  
5           There's a connection around 1:00 in the afternoon. There's  
6           frantic calls by the Defendant to Wane Briscoe unanswered all  
7           day. There's connected calls in the evening and then Wane  
8           Briscoe comes up to Baltimore, that's the exact pattern that  
9           he discussed, the timing is different. And remember that Wane  
10          Briscoe testified that the day before when the Defendant  
11          called him and said, I want to help you commit a robbery, the  
12          Defendant also said in that call, "come get me," the same  
13          words were used, "come get me."

14                So when you look at that Grand Jury transcript, that I  
15                suggest that you look at, and listen to his testimony in  
16                addition to the recordings, there's some confusion sometimes  
17                as to which of those two days is being discussed, and I will  
18                concede that Wane Briscoe was inconsistent at times relating  
19                to the timing, but you'll see there were two very similar  
20                calls. One was the day before, and one was the day after of  
21                the murder.

22                But Wane Briscoe has simply no motive to lie. He owns  
23                his drug dealing. He even told you that he considered and  
24                briefly agreed to commit the robbery, but you know what, the  
25                Government didn't know about that, the ATF didn't know about

1 that, they only learned about that because he told them. And  
2 remember, if the Defendant is guilty as an accomplice, as the  
3 Defense says, he's only guilty if the Defendant -- I'm sorry,  
4 if Wane Briscoe was guilty, he's only guilty if the Defendant  
5 is guilty. And look at Wane's testimony, cell tower records  
6 corroborated, Terrill Harris corroborates, Terrill Harris  
7 saying, the Defendant said to him, God was going to punish me  
8 corroborates it. The calls from the Defendant corroborate it.  
9 Tiffany Jackson saying the Defendant showed up that same night  
10 acting guilty corroborates it, and Kiara Haynes corroborates  
11 it.

12 So he's corroborated by other evidence in the case, but  
13 he's also corroborated by all of his prior statements. It's  
14 on tape. It's in the Grand Jury. It's in the hospital. You  
15 saw some of time, watch that video. Watch what he says and  
16 watch his demeanor. Did he pause when answering some of the  
17 Defense questions, yes, in front of you, under oath years  
18 later, watch that interview of him in the hospital, or  
19 remember your viewing, remember his demeanor, watch his  
20 reaction when the detective asked him questions, and he goes  
21 what about it? And Wane is just dumbfounded he goes, the  
22 murders, that's what he's talking about, the murders. But the  
23 ultimate corroboration of Wane Briscoe was in that interview  
24 on the fourth clip that you saw.

25 Photo is Government's Exhibit 2.8, page 6, and the audio

1 recording is 18.12, what does he say? What does he say the  
2 Defendant tells him? "She was at the table. He shot her in  
3 the head. She never saw it coming." There's no evidence in  
4 this case that anybody knew that outside of law enforcement.

5 Look at page 6, and you will see next to Jennifer's body  
6 is the chair and the trash can. And now, after listening to  
7 what the Defendant told Wane Briscoe, you have the full story,  
8 because he surprised her. She was sitting at the table, she  
9 didn't see it coming, and when he shot her, she fell, knocking  
10 over the chair and the wastebasket. He could not have known  
11 that, he was in Delaware or Cambridge as they have told you.

12 Al Harris did not get help from the feds. The Defense  
13 has argued that they did, there is no evidence of that. What  
14 he says is not evidence. The testimony was clear, the  
15 Government did not help Al Harris in any of his cases.

16 The Defense argues that Al Harris's statements are  
17 inconsistent on where he was exactly when he first heard this  
18 confession. And this is a perfect example of what I was  
19 mentioning earlier, witnesses remember the important, not what  
20 day of the week it was or what time of day it was, or whose  
21 house they were at. His nephew told him he shot the bitch,  
22 and he did it, and he shot Tone, that's what he remembers. He  
23 said, the Defendant told him he shot the child because he  
24 could identify him, that's what's important. That's what he  
25 remembers. He has no motive to lie. But like Wane, Al

1 provides information that is indisputable corroboration,  
2 because when he comes forward in 2016, that's 2016, he says  
3 the Defendant told him Kiara is not so innocent. She got the  
4 gun. 2016 remember, law enforcement does not even know about  
5 that call with Tarrell Powell until Kiara Haynes comes in and  
6 tells them, and they go back and find that call from way back  
7 in May 26th, 2015.

8 Just like Al Harris said, Kiara and her fam needed a gun  
9 to rob these people of the drugs that she was sitting on.  
10 Nobody knew about that call. Special Agent Weaver didn't know  
11 about that call when he first talked to Al Harris. You all  
12 heard Al Harris's numerous prior inconsistent statements, I  
13 suggest that you listen to those as well, all saying the same  
14 thing over and over again.

15 His ATF interview of October 26, 2017, his Grand Jury  
16 testimony on February 19th, 2020. His interview with BPD on  
17 November 9th, 2016. "The kid could recognize him because he  
18 seen me there." He said he did it because the boy had seen  
19 him. And time, Mr. Purpura says, well we don't know what  
20 happened in between her first statement and her second  
21 statement. All right. And she came in and she told you she  
22 lied the first time, she didn't provide all of the  
23 information. Critically, she didn't provide a confession, but  
24 we do know that, because she told you that, and it's really  
25 uncontradicted. It's simple. It's a little strange, she

1 smelled a baby, and it made her think about her own kids, and  
2 it made her think about Tone, that's her testimony. When she  
3 called Special Agent Weaver, she told him, right, and then he  
4 called her again and they had another longer call that he  
5 recorded, that you heard parts of. And then she testified in  
6 Grand Jury all of the same.

7 So yes, she did lie, initially, and she sat there, and  
8 she looked at you, and she looked at the Defendant. She told  
9 you, I lied previously, I have no reason to lie now. I was  
10 afraid, he did -- he told me he did it. He told me, I did it,  
11 I didn't do it.

12 You are the judges of credibility. Remember Tonya  
13 Harris, she sat across the table from him as he cried. Not  
14 only that, Tonya Harris told you that the next day she asked  
15 him about it again, and he denied it. Who does that? If  
16 she's making up a story, who builds in a subsequent denial,  
17 does that make any sense or does that ring true because it is  
18 true?

19 Tonya Harris is not just a good witness, she's a truthful  
20 witness. She had no motive to lie and she came in here and  
21 she told you everything.

22 Now, Ms. Whalen said in opening statement that it's human  
23 nature to point the finger at people even though they didn't  
24 do it. I disagree. I disagree. I think it's human nature to  
25 give people the benefit of the doubt, and that's what Tonya

1 Harris did. Because sure she was hearing rumors but she  
2 didn't have any evidence, but when the Defendant said to her,  
3 "I was dreaming about Jen, and she's grabbing my nuts in my  
4 nightmare," that's when Tonya said, you sound like you killed  
5 her. And the Defendant said, "I did it. I did do it." But  
6 she lied to protect him, and she eventually came forward and  
7 she told you, she looked right at him. She loved him and she  
8 still loves him.

9 So I disagree with Ms. Whalen that's it's human nature to  
10 want to implicate people for crimes that they didn't do. It's  
11 human nature to give the people the benefit of the doubt, but  
12 the Defendant did this crime, even as terrible as it is, and  
13 he told Tonya Harris. She told you. Remember, you judge  
14 credibility.

15 Ladies and gentlemen, the government is not asking you to  
16 like any of these witnesses. Some have committed crimes.  
17 Some have agreed to commit violent crimes. Some likeable,  
18 some are not. Even some of the ones that committed crimes  
19 might be likeable, but we're not asking you to like them.  
20 Just follow the evidence, and the evidence tells you that  
21 those witnesses are telling the truth, and you don't need to  
22 rely on any single one of those witnesses, because you have  
23 all of the evidence of the Defendant's location, his phone  
24 calls, his conduct covering things up, his turning off his  
25 phone, any one of those witness, Tonya Harris, plus all of



1 that evidence is not a convicted offense.

2 Wane Briscoe and all of that evidence is not, but you  
3 don't have to look at them in isolation. You're not being  
4 asked to find beyond a reasonable doubt if Tonya Harris is  
5 telling the truth. Your simple question, each of those  
6 elements on the verdict sheet is when you view all of the  
7 evidence in totality, is the Defendant guilty, did he kill Jen  
8 and Tone Tone?

9 This case is not whether you believe Kiara Haynes, you  
10 can believe Kiara Haynes, and there's a lot of reasons to do  
11 so, but the evidence in the case is overwhelming without her  
12 testimony, and it's overwhelming without any individual  
13 witness's testimony. You have motive. He was the last person  
14 to speak to Jen. He had the opportunity. He was there. He  
15 turned off his phone, there is no explanation for that. He  
16 stopped using Facebook. He called for his ride. He fled to  
17 Cambridge with Jen's drugs. He lied to the police multiple  
18 times, and those lies all referenced Jen, distance from the  
19 victim. He confessed four times. There is no witnesses  
20 because he killed Tone Tone. He never called Jen again and he  
21 protected Kiara Haynes.

22 Ladies and gentlemen, the Defendant has certainly had  
23 his day in court. Give him what he's earned. Give him a  
24 verdict of guilty. You're 12 or soon to be 12 reasonable men  
25 and women. The Government's case has literally overflowed

1 with evidence of this Defendant's guilt. So I -- we turn you  
2 over to your good common sense in evaluating the evidence of  
3 viewing the testimony.

4 Federal investigators did their jobs gathering the  
5 evidence. The Government has done its job presenting it to  
6 you. Now, it's your turn. I ask you to do your job, consider  
7 the evidence fairly, come back in this courtroom and say we  
8 find the Defendant guilty of whatever you want to call, but  
9 the murders of Jennifer Jeffrey and K.B., III, Tone Tone, and  
10 all six counts charged.

11 Thank you.

12 **THE COURT:** Thank you very much, Mr. Budlow.

13 Ladies and gentlemen, I'm now going to read the  
14 instructions to you. This is a very important process here.  
15 I will tell you that you don't see this on television ever,  
16 because if you did, the ratings would go right through the  
17 floor, okay. That's a very simple matter, and this is done in  
18 every case, and I think only two of you have had prior jury  
19 service, so you wouldn't understand this, but this is very  
20 important here in terms of my instructing you on the law.  
21 These will be tape recorded, but you won't have a copy of the  
22 tape itself.

23 What I'm going to read, you're going to get copies.  
24 Every one of you, all 12 of you will have instructions every  
25 one of you, all 12 of you will have instructions handed you to

1 when you start your deliberations, as well as the verdict  
2 form, and the alternates just stand by, because you stay here  
3 and you're very much a part of the process. And they are  
4 indexed with descriptions, and with an index and the page  
5 numbers on them.

6 You have now heard all of the evidence and the arguments  
7 counsel, and are about to enter your final duty which is to  
8 decide the fact issues in the case. Before you to do that, I  
9 will instruct you on the law. You must pay close attention to  
10 me now, I will go as slowly as I can, and be as clear as  
11 possible.

12 I told you at the very start of the trial your principal  
13 function during the taking of testimony would be to listen  
14 carefully and observe each witness who testified. It has been  
15 obvious to me and to counsel that you have faithfully  
16 discharged this duty. Your interest never flagged and it is  
17 evident that you followed the testimony with close attention.

18 I will ask that you give that same careful attention as I  
19 I instruct you on the law. You have now heard all of the  
20 evidence in the case, as well as the final arguments of the  
21 lawyers for the parties. My duty at this point is to instruct  
22 you as to the law. It is your duty to accept these  
23 instructions of the law and apply them to the facts as you  
24 determine them, just as it has been my duty to preside over  
25 the trial and decide what testimony and evidence is relevant

1 under the law for your consideration.

2 On these legal matters, you must take the law, as I give  
3 it to you. If any attorney has stated a legal principle  
4 different from any that I state to you in my instructions here  
5 this afternoon, it is my instructions that you must follow.  
6 Your role is to pass upon and decide the factual issues that  
7 are in the case. You the members of the jury are the sole and  
8 exclusive judges of the facts. You pass upon the weight of  
9 the evidence. You determine the credibility of the witnesses.  
10 You resolve such conflicts as there may be in the testimony,  
11 and you draw whatever reasonable inferences you decide to draw  
12 from the facts as you have determined them.

13 In determining the facts, you must rely upon your own  
14 recollection of the evidence. The evidence in this case  
15 consists of the sworn testimony of the witnesses and the  
16 exhibits received into evidence. What the lawyers have said  
17 in their opening statements at the beginning of this trial,  
18 and what they've said in their closing arguments today, in  
19 their objections, and in their questions to the witnesses, is  
20 not evidence. What I say here right now is not evidence.

21 Since you are the sole and exclusive judges of the facts,  
22 I do not need to indicate any opinion as to the facts or what  
23 your verdict should be. You are to perform the duty of  
24 finding the facts without bias or prejudice as to any party.  
25 You are to perform your final duty in an attitude of complete

1 fairness and impartiality. The case is important to the  
2 Government, for the enforcement of criminal laws is a matter  
3 of prime concern to the community.

4 Equally, it is important to the Defendant who is charged  
5 with serious crimes. The fact that the prosecution is brought  
6 in the name of the United States of America entitles the  
7 Government to no greater consideration than that afforded to  
8 any other party to a litigation.

9 By the same token, it is entitled to no less  
10 consideration. All parties, whether Government or individuals  
11 will stand as equals at the bar of justice.

12 Defense counsel have an ethical duty to investigate and  
13 secure relevant information that may assist in the defense of  
14 the case. This duty may include engaging an investigator to  
15 conduct interviews of potential witnesses. Your verdict must  
16 be based upon -- must be solely based upon the evidence  
17 developed at trial or the lack of evidence. It would be  
18 improper for you to consider in reaching your decision, as to  
19 whether the Government sustained its burden of proof, any  
20 personal feeling you may have about the Defendant's race,  
21 religion, national origin, sex, or age.

22 All persons are entitled to the presumption of innocence  
23 and the Government has the burden of proof as I will discuss  
24 in a moment.

25 It would be equally improper for you to allow any

1 feelings you might have about the nature of the crimes charged  
2 to interfere with your decision making process. Under your  
3 oath as jurors, you are not to be swayed by sympathy. You are  
4 to be guided solely by the evidence in this case, and the  
5 crucial hardcore question that you must ask yourself as you  
6 sift through the evidence is, has the Government proven the  
7 guilt of the Defendant beyond a reasonable doubt.

8 It must be clear to you, once you let fear or prejudice  
9 or bias or sympathy interfere with your thinking, there is a  
10 risk that you will not arrive at a true and just verdict. If  
11 you have a reasonable doubt as to a Defendant's guilt, you  
12 should not hesitate for any reason to find a verdict of  
13 acquittal. But on the other hand, if you should find that the  
14 Government has met its burden of proving Defendant's guilt  
15 beyond a reasonable doubt, you should not hesitate because of  
16 sympathy or any other reason to render a verdict of guilty.

17 I remind you that an indictment itself is not evidence.  
18 It merely describes the charges made against the Defendant.  
19 It is an accusation. It may not be considered by you as any  
20 evidence of the guilt of the Defendant. In reaching your  
21 determination of whether the Government has proved the  
22 Defendant guilty beyond a reasonable doubt, you may consider  
23 only the evidence introduced or lack of evidence. The  
24 indictment contains a total of six counts, you must consider  
25 each count separately and return a separate verdict of guilty

1 or not guilty for each count, and you will have a verdict  
2 sheet there you can all look at, and your foreperson will be  
3 checking off those answers.

4 Whether you find the Defendant guilty or not guilty as to  
5 one offense, should not affect your verdict as to any other  
6 offense charged. The burden is on the prosecution, that is  
7 the Government, to prove the Defendant's guilt beyond a  
8 reasonable doubt. As a result, the Defendant begins the trial  
9 here with a clean slate. This presumption of innocence alone  
10 is sufficient to acquit the Defendant, unless you, after a  
11 careful and impartial consideration of the all of the  
12 evidence, are unanimously convinced, beyond a reasonable doubt  
13 of the Defendant's guilt.

14 If the Government fails to sustain its burden of proving  
15 the Defendant guilty beyond a reasonable doubt, you must find  
16 the Defendant not guilty. This burden never shifts to the  
17 Defendant for the simple reason that the law never imposes  
18 upon a Defendant in a criminal case the burden of calling any  
19 witness or producing any evidence.

20 The fact that one party called more witnesses and  
21 introduced more evidence than the other, does not mean that  
22 you should necessarily find the facts in favor of the side  
23 offering the most witnesses.

24 You also have to decide which witnesses to believe and  
25 which facts are true. To do this, you must look at all of the

1 evidence, drawing upon your own common sense and personal  
2 experience.

3 After examining all of the evidence, you may decide that  
4 the party calling the most witnesses has not persuaded you,  
5 because you do not believe its witnesses, or because you do  
6 believe the fewer witnesses called by the other side. In a  
7 moment, I will discuss the criteria for evaluating  
8 credibility.

9 For the moment, however, you should keep in mind that the  
10 burden of proof is always on the Government and the Defendant  
11 is not required to call any witnesses or offer any evidence  
12 since he is presumed to be innocent.

13 During the trial, you've heard the testimony of  
14 witnesses, and arguments by counsel that the Government did  
15 not utilize specific investigative techniques. You may  
16 consider these facts in deciding whether the Government has  
17 met its burden of proof, because, as I told you, you should  
18 look to all of the evidence, or lack of evidence in deciding  
19 whether Defendant is guilty.

20 However, you're also instructed that there is no legal  
21 requirement that the Government use any of these specific  
22 investigative techniques to prove its case. Your concern, as  
23 I have said, is to determine whether or not on the evidence or  
24 lack of evidence the Defendant's guilt has been proved beyond  
25 a reasonable doubt.



1           There are two types of evidence that are generally  
2       presented during a trial. I think I've mentioned this to you  
3       when you started two weeks ago, direct and circumstantial  
4       evidence.

5           Direct evidence is the testimony of a person who asserts  
6       actual knowledge of a fact, such as an eyewitness.

7       Circumstantial evidence is proof of a chain of facts and  
8       circumstances indicating the existence of a fact. The law  
9       makes no distinction between the weight or value to be given  
10      to either direct evidence or circumstantial evidence, nor is a  
11      greater degree of certainty required of circumstantial  
12      evidence than of direct evidence.

13          You should weigh all of the evidence in the case, after  
14      weighing all of the evidence, if you are not convinced of the  
15      guilt of a Defendant beyond a reasonable doubt, you must find  
16      him not guilty.

17          I remind you that a lawyer's question to a witness is not  
18      evidence. At times a lawyer on cross-examination may have  
19      incorporated into a question a statement that assumes certain  
20      facts to be true, and ask the witness if the statement was  
21      true. If the witness denies the truth of the statement, and  
22      if there is no evidence in the record proving the assumed fact  
23      is true, then you may not consider the fact to be true simply  
24      because it was contained in the lawyer's question. In short,  
25      questions are not evidence, answers are.

1           The evidence in this case consists of the sworn testimony  
2           of the witnesses, the exhibits received in evidence and  
3           certain stipulations.

4           As I've mentioned earlier during the trial, a  
5           stipulation, essentially, is an agreement among the parties  
6           that a certain fact is true. You should regard such agreed  
7           facts as true. Exhibits which have been marked for  
8           identification, but not received may be considered by you as  
9           evidence -- may not be considered by you as evidence.

10          Some items of evidence are marked just for identification  
11          only, they will not be going back in the jury room with you.  
12          Only those exhibits received may be considered as evidence.  
13          Anything that you may have seen or heard about this case  
14          outside of the courtroom is not evidence, and must be entirely  
15          disregarded.

16          As I indicated before, only the witnesses' answers are  
17          evidence, and you are not to consider a question as evidence.  
18          Similarly, statements by counsel are not evidence. You should  
19          consider the evidence in light of your own common sense and  
20          experience. And you may draw reasonable inferences from the  
21          evidence.

22          The government has offered evidence in the form of taped  
23          recordings of conversations with the Defendant. These  
24          recordings were made without the knowledge of the Defendant,  
25          but with the consent and agreement of one of the other parties

1 to the conversations. The use of this procedure to gather  
2 evidence is perfectly lawful.

3 The parties have presented exhibits in the form of  
4 charts and summaries. I decided to admit these charts and  
5 summaries in place of the underlying documents that they  
6 represent in order to save time and avoid unnecessary  
7 inconvenience. You consider -- you should consider these  
8 charts and summaries as you would any other evidence. There  
9 has been evidence that the Defendant allegedly made certain  
10 statements in which the Government claims he admitted certain  
11 facts charged in the indictment.

12 You should first examine with great care whether each  
13 statement was made, and if so, whether, in fact, it was  
14 voluntarily and understandably made. I instruct you that you  
15 are to give the statement such weight as you feel they deserve  
16 in light of all of the evidence.

17 The Defendant did not testify in this case. Under our  
18 constitution, he has no obligation to testify, or to present  
19 any other evidence because it is the prosecution's burden to  
20 prove the Defendant guilty beyond a reasonable doubt. That  
21 burden remains with the prosecution throughout the entire  
22 trial, and never shifts to the Defendant. The Defendant is  
23 never required to prove that he is innocent. You may not  
24 attach any significance to the fact that the Defendant did not  
25 testify, no adverse inference against him may be drawn by you

1 because he did not take the witness stand.

2 You may not consider this against the Defendant in any  
3 way in your deliberations in the jury room. There has been  
4 testimony that the Defendant was silent when statements were  
5 made in his presence accusing him of committing the acts  
6 charged in the indictment. If you find that the Defendant was  
7 actually present and heard the statements and understood them,  
8 then you may consider the Defendant's silence as an admission  
9 of their truth, if you find, in accordance with your common  
10 sense and experience, that the Defendant would have denied the  
11 statements had they been untrue. However, you should bear in  
12 mind that some people will remain silent, even if they are  
13 innocent.

14 During the trial, you've heard the lawyers -- attorneys  
15 use the term "inference," and in their arguments they've asked  
16 you to infer on the basis of your reason, experience, and  
17 common sense from one or more established facts the existence  
18 of some other fact.

19 An inference is not a suspicion or a guess. It is a  
20 reasoned logical decision to conclude that a disputed fact  
21 exists on the basis of another fact, which you know exists.  
22 There are several persons whose names you have heard during  
23 the course of the trial, but who did not appear here to  
24 testify. And one or more of the attorneys has referred to  
25 their absence from the trial.

1 I instruct you that each party had an equal opportunity  
2 or lack of opportunity to call any of these witnesses,  
3 therefore, you should not draw any inferences or reach any  
4 conclusions as to what they would have testified, had they  
5 been called. Their absence should not affect your judgment in  
6 any way.

7 You should, however, remember my instruction that the law  
8 does not impose on a Defendant in a criminal case the burden  
9 or duty of calling any witnesses or producing any evidence.  
10 It must be clear to you by now that the Government and the  
11 Defendant are asking you to draw very different conclusions  
12 about various factual issues in the case. Deciding these  
13 issues will involve making judgments about the testimony of  
14 the witnesses you've listen to, and observed.

15 In making these judgments you should carefully scrutinize  
16 all of the testimony of each witness, the circumstances under  
17 which each witness testified, and any other matter and  
18 evidence that may help you to decide the truth, and the  
19 importance of each witness's testimony.

20 Your decision whether or not to believe a witness may  
21 depend on how that witness impressed you. How did the witness  
22 appear? Was the witness candid, frank and forthright or did  
23 the witness seem to be evasive or suspect in some way.

24 How did the way the witness testified on direct  
25 examination compare with how the witness testified on

1 cross-examination. Was the witness consistent or  
2 contradictory? Did the witness appear to know what he or she  
3 was talking about? Did the witness strike you as someone who  
4 was trying to report his or her knowledge accurately? These  
5 are examples of the kinds of common sense questions you should  
6 ask yourselves in deciding whether a witness is or is not  
7 truthful.

8 How much you choose to believe a witness may be  
9 influenced by the witness's bias. Does the witness have a  
10 relationship with the Government or the Defendant that may  
11 affect how he or she testified?

12 Does the witness have some incentive, loyalty, or motive  
13 that might cause him or her to shade the truth? Does the  
14 witness have some bias, prejudice, or hostility that may cause  
15 the witness to give you something other than a completely  
16 accurate account of the facts he or she testified to?

17 You should also consider whether a witness has an  
18 opportunity to observe the facts he or she testified about.  
19 Also, you should consider whether the witness's recollection  
20 of the facts stands up in light of the other evidence in the  
21 case. In other words, you must try to do -- what you must try  
22 to do in deciding credibility is to size up a person just as  
23 you would in any important matter when you're trying to decide  
24 if a person is truthful, straightforward and accurate in his  
25 or her recollection.

1           In connection with your evaluation of the credibility of  
2       the witnesses, you should specifically consider evidence of  
3       resentment or anger that some Government witnesses may have  
4       towards the Defendant. Evidence that a witness is biased,  
5       prejudiced, or hostile toward the Defendant requires you to  
6       view that witnesses testimony with caution, to weigh it with  
7       care, and subject it to close and searching scrutiny.

8           In evaluating credibility of the witnesses you should  
9       take into account any evidence that the witness who testified  
10      may benefit in some way from the outcome of this case. Such  
11      an interest in the outcome creates a motive to testify falsely  
12      and may sway the witness to testify in a way that advances his  
13      own interests.

14          Therefore, if you find that any witness whose testimony  
15      you're considering may have an interest in the outcome of this  
16      trial, then you should bear that factor in mind when  
17      evaluating the credibility of his or her testimony, and accept  
18      it with great care.

19          This is not to suggest that every witness who has an  
20      interest in the outcome of the case will testify falsely. It  
21      is for you to decide to what extent, if at all, the witness's  
22      interest has affected or colored his or her testimony.

23          You have heard witnesses who testified that they were  
24      actually involved in planning and carrying out crimes charged  
25      in the indictment. There has been a great deal said about

1 these accomplice witnesses and the summations of counsel and  
2 whether or not you should believe them. The Government  
3 argues, as it is permitted to do, that it makes -- it must  
4 take the witnesses as it finds them. It argues that only  
5 people who themselves take part in criminal activity have the  
6 knowledge acquired to show criminal behavior by others. For  
7 those very reasons, the law allows the use of accomplice  
8 testimony, indeed, it is the law in Federal courts that the  
9 testimony of accomplices may be enough, in and of itself, for  
10 convictions, even if the jury finds that testimony establishes  
11 guilt beyond a reasonable doubt.

12 However, it is also the case that accomplice testimony is  
13 of such nature that it must be scrutinized with great care and  
14 viewed with particular caution when you decide how much of  
15 that testimony to believe.

16 I have given you some general considerations on  
17 credibility, and I will not repeat them all here, nor will I  
18 repeat all of the arguments made on both sides. However, let  
19 me say a few things that you may want to consider during your  
20 deliberations on the subject of accomplices.

21 You should ask yourself whether these so-called  
22 accomplices would benefit more by lying or by telling the  
23 truth. Was their testimony made up in any way because they  
24 believed or hoped that they would somehow receive favorable  
25 treatment by testifying falsely, or did they believe that



1 their interest was best served by testifying truthfully?

2 If you believe that a witness was motivated by hopes of  
3 personal gain, was the motivation one that would cause her to  
4 lie, or was it one that would cause her to tell the truth?  
5 Did that motivation color her testimony?

6 In summary, you should look at all of the evidence in  
7 deciding what credence and what weight, if any, you will want  
8 to give to the accomplice witnesses. You have heard testimony  
9 from a Government witness who plead guilty to charges out of  
10 the same facts in this case.

11 You are instructed you are to draw no conclusions or  
12 inferences of any kind about the guilt of the Defendant on  
13 trial, and the fact that a prosecution witness plead guilty to  
14 similar charges. That witness's decision to plead guilty was  
15 a personal decision about her own guilt. It may not be used  
16 by you in any way as evidence against or unfavorable to the  
17 Defendant on trial here.

18 In this case, there has been testimony from that  
19 Government witness, a specific government witness, Kiara  
20 Haynes, who pled guilty after entering into an agreement with  
21 the Government to testify.

22 The Government has promised to bring the witness's  
23 cooperation to the attention of the sentencing court. The  
24 Government is permitted to enter into this kind of plea  
25 agreement. You, in turn, may accept the testimony of such a

1 witness and convict the Defendant on the basis of that  
2 testimony alone if it convinces you of the Defendant's guilt  
3 beyond a reasonable doubt.

4       However, you should bear in mind that a witness who has  
5 entered into such an agreement has an interest in that case  
6 different than any ordinary witness. A witness who realizes  
7 that she may be able to obtain her own freedom, or receive a  
8 lighter sentence by giving testimony favorable to prosecution,  
9 has a motive to testify falsely. Therefore, you must examine  
10 her testimony with caution and weigh it with great care. If  
11 after scrutinizing his testimony, you decide to accept it, you  
12 may give it whatever weight, if any, you find it deserves.  
13 There has been evidence introduced at trial that the  
14 Government used an informer in this case. I instruct you that  
15 there is nothing improper in the Government's use of  
16 informers. You, therefore, should not concern yourself with  
17 how you personally feel about the use of informers, because  
18 that is really besides the point.

19       To put it another way, your concern is to decide whether  
20 the Government has proved the guilt of the Defendant beyond a  
21 reasonable doubt, regardless of whether evidence was obtained  
22 by the use of an informer.

23       On the other hand, when an informer testifies, as he did  
24 here, his testimony must be examined with greater scrutiny  
25 than the testimony of an ordinary witness. You should

1 consider whether he received any benefits or promises from the  
2 Government that would motivate him to testify falsely against  
3 the Defendant.

4 For example, he may believe he will only continue to  
5 receive those benefits if he produces evidence of criminal  
6 conduct. If you decide to accept his testimony after  
7 considering it in the light of all of the evidence in this  
8 case, then you may give it whatever weight, if any, you find  
9 it deserves.

10 You have heard the testimony of law enforcement  
11 officials. The fact that a witness may be employed by a law  
12 enforcement official, as a law enforcement official, does not  
13 mean that his or her testimony is necessarily deserving of  
14 more or less consideration, or greater or lesser weight than  
15 that of an ordinary witness. At the same time, it is quite  
16 legitimate for defense counsel to try to attack the  
17 credibility of a law enforcement witness on the grounds that  
18 his testimony may be colored by a personal or professional  
19 interest in the outcome of the case.

20 It is your decision, after reviewing all of the evidence,  
21 whether to accept the testimony of a law enforcement witness,  
22 and to give that testimony, whatever weight, if any, you find  
23 it deserves. There's been evidence that a witness who  
24 testified at that trial, lied under oath at another  
25 proceeding. I must warn you that the testimony of this

1 witness should be viewed cautiously, and weighed with great  
2 care. It is, however, for you to decide how much of his or  
3 her testimony, if any, you wish to believe.

4 You have heard evidence that a witness made a statement  
5 on an earlier occasion that counsel argues is inconsistent  
6 with the witness's trial testimony. Evidence of a prior  
7 inconsistent statement is not to be considered by you as an  
8 affirmative evidence bearing on the Defendant's guilt.  
9 Evidence of the prior inconsistent statement was placed before  
10 you for the more limited purpose of helping you to decide  
11 whether to believe the trial testimony of the witness who  
12 contradicted himself.

13 If you find that the witness made an earlier statement  
14 that conflicts with his trial testimony, you may consider that  
15 fact in deciding how much of his trial testimony, if any, to  
16 believe. In making this determination, you may consider  
17 whether the witness purposely made a false statement or  
18 whether it was an innocent mistake, whether the inconsistency  
19 concerns an important fact, or whether it had to do with a  
20 small detail. Whether the witness had an explanation for the  
21 inconsistency, and whether that explanation appealed to your  
22 common sense.

23 It is exclusively your duty, based upon all of the  
24 evidence in your own good judgement, to determine whether the  
25 prior statement was inconsistent, and if so, how much if any

1 weight to be given to the inconsistent statement in  
2 determining whether to believe all or part of the witness's  
3 testimony.

4 In this case, I have permitted certain witnesses to  
5 express their opinions about matters that are at issue. A  
6 witness may be permitted to testify to an opinion on those  
7 matters about which he or she has special knowledge, skill,  
8 experience, and training.

9 In weighing this expert opinion testimony, you may  
10 consider the witness's qualifications, his or her opinions,  
11 the reasons for testifying, as well as all of the other  
12 considerations that ordinarily apply when you are deciding  
13 whether or not to believe a witness's testimony.

14 You should not, however, accept opinion testimony merely  
15 because I allow the witness to testify concerning his or her  
16 opinion.

17 The question of possible punishment of the Defendant is  
18 of no concern to the jury, and should not, in any sense, enter  
19 into or influence your deliberations. The duty of imposing  
20 sentence rests exclusively upon me, the Court. You have been  
21 instructed that in order to sustain this burdens of proof, the  
22 Government must prove that the Defendant acted knowingly,  
23 willfully, and intentionally. A person acts knowingly if he  
24 acts intentionally and voluntarily, and not because of  
25 ignorance, mistake, accidents or carelessness. Whether the

1 Defendant acted knowingly may be proven by the Defendant's  
2 conduct, and by all the facts and circumstances surrounding  
3 the case.

4 A person acts willfully, which means to act with  
5 knowledge that one's conduct isn't unlawful and with the  
6 intent to do something the law forbids, that is to say with  
7 the bad purpose to disobey or disregard the law.

8 The Defendant's conduct was not willful if it was due to  
9 negligence or inadvertence or a mistake. A person acts  
10 intentionally if he acted deliberately and purposefully. That  
11 is the Defendant's acts must have been the product of the  
12 Defendant's conscious objectives, rather than the product of a  
13 mistake or accident.

14 Knowledge, willfulness, and intent involve the state of a  
15 person's mind. It has often been said to juries, the state of  
16 one's mind is a fact as much as the state of his digestion.  
17 Accordingly, this is a fact that you were called upon to  
18 decide. Medical science has not yet devised an instrument  
19 which can record what was in one's mind in the distant past.

20 Rarely is direct proof available to establish the state  
21 of one's mind. This may be inferred from what he says or  
22 does, his words, his actions, and his conduct as of the time  
23 of the occurrence of certain events.

24 The intent with which an act is done, is often more  
25 deadly, clearly rather -- is often more clearly and

1 conclusively shown by the act itself, or by a series of acts  
2 than by words or explanations of the act that are long after  
3 its occurrence.

4 Accordingly, intent, willfulness, knowledge, or it's  
5 usually established by surrounding facts and circumstances as  
6 of the time the acts in question occurred or the events took  
7 place, and the reasonable inferences to be drawn from them.  
8 Proof of motive is not a necessary element of the crime with  
9 which the Defendant is charged.

10 Proof of motive does not establish guilt, nor does a lack  
11 of proof of motive establish a Defendant is not guilty, if the  
12 guilt of a Defendant is shown beyond a reasonable doubt, it is  
13 immaterial what the motive for the crime may be, or whether  
14 any motive may be shown. But the presence or absence of a  
15 motive is a circumstance that you may consider as bearing on  
16 the intent of a Defendant.

17 The indictment contains six counts.

18 Count 1 charges the Defendant with conspiracy to  
19 distribute and possess with intent to distribute controlled  
20 substance.

21 Count 2 charges the Defendant with possession with intent  
22 to distribute controlled substance.

23 Counts 3 charges the Defendant with possession of a  
24 firearm and ammunition by a prohibited person.

25 Counts 4 and 5 charge the Defendant with use and carry of

1 a firearm during and in relation to a drug trafficking crime,  
2 and also a crime of violence, causing the death of another.

3 Count 6 charges the Defendant with killing a witness to  
4 prevent communication to law enforcement. The Defendant has  
5 denied that he is guilty of these charges.

6 Count 1, the narcotics conspiracy, the Defendant is  
7 essentially charged in Count 1 of the indictment with  
8 conspiracy to distribute and possess with intent to distribute  
9 controlled substances. And I'm now going to summarize and  
10 read some of these counts. You're not going to get a copy of  
11 the indictment, because I'm going to read from the indictment  
12 here, and it will be included in the instructions that all of  
13 you will have before you when you deliberate.

14 As to Count 1, the indictment reads, beginning no later  
15 than March 2015 and continuing until in or about October 2015,  
16 in the District of Maryland and elsewhere, the Defendant,  
17 Andre Ricardo Briscoe, did knowingly combine, conspire,  
18 confederate and agree with others known and unknown to the  
19 Grand Jury, to distribute and possess with the intent to  
20 distribute 100 grams or more of a mixture or substance  
21 containing a detectable amount of heroin, a Schedule 1  
22 controlled substance.

23 The relevant statute on this subject is 21 United States  
24 Code §846, which prohibits anyone from conspiring to  
25 distribute and possess with intent to distribute controlled



1 dangerous substances.

2 In order to satisfy its burden of proof on Count 1, the  
3 Government must establish both of the following elements  
4 beyond a reasonable doubt.

5 First, that two or more persons entered into an unlawful  
6 agreement to distribute and possess with intent to distribute  
7 heroin, a controlled dangerous substance as charged in the  
8 indictment. And two, that the Defendant knowingly and  
9 willfully became a member of the conspiracy.

10 The first element the Government has proved beyond a  
11 reasonable doubt to establish the offense of conspiracy is  
12 that two or more persons entered the unlawful agreement charge  
13 in the indictment, that is an agreement to distribute and  
14 possess with intent to distribute controlled dangerous  
15 substances. The controlled dangerous substance alleged in  
16 this count is heroin.

17 In order for the Government to satisfy this element, you  
18 need not find that the alleged members of the conspiracy met  
19 together and entered into any express or formal agreement.  
20 Similarly, you need not find that the alleged conspirator  
21 stated in words or writing what the scheme was. It's object  
22 or purpose or every precise detail of the scheme, or the means  
23 by which it's object or purpose was to be accomplished.

24 What the Government must prove is that there was a mutual  
25 understanding, either spoken or unspoken between two or more

1 people to cooperate with each other to accomplish an unlawful  
2 act.

3 You may, of course, find that the existence of an  
4 agreement to disobey or disregard the law has been established  
5 by direct proof. However, since conspiracy is by its very  
6 nature characterized by secrecy, you may also infer its  
7 existence from the circumstances of this case, and the conduct  
8 of the parties involved.

9 In a very real sense then, in the context of conspiracy  
10 cases, actions often speak louder than words. In this regard,  
11 you may in determining whether an agreement existed here,  
12 consider the actions and statements of all of those you find  
13 to be participant as proof that a common design existed on the  
14 part of the person charged, and its co-conspirators to act  
15 together for the accomplishment of an unlawful purpose.

16 The second element that the Government must prove beyond  
17 a reasonable doubt to establish the offense of conspiracy is  
18 that the Defendant knowingly, willfully, and voluntarily  
19 became a member of the conspiracy. If you are satisfied that  
20 the conspiracy charged in the indictment existed, you must  
21 next ask yourselves who the members of the conspiracy were in  
22 deciding whether the Defendant was -- in deciding whether the  
23 Defendant was, in fact, a member of the conspiracy you should  
24 consider whether he knowingly and willfully joined the  
25 conspiracy.

1 Did he participate in it with knowledge of its unlawful  
2 purpose, and with the specific intention to further his  
3 business or objective as an associate or worker? The  
4 Defendant's participation in the conspiracy must be  
5 established by his own acts or statements, or the acts or  
6 statements of his alleged co-conspirators, and the reasonable  
7 inferences that may be drawn from them.

8 A Defendant's knowledge is a matter of inference from the  
9 facts proved. In that connection, I instruct you that to  
10 become a member of the conspiracy, a Defendant need not have  
11 known the identifies of each and every member, nor need he  
12 have been apprised of all of their activities. Moreover, a  
13 Defendant need not have been fully informed as to all of the  
14 details, or the scope of the conspiracy in order to justify an  
15 inference of knowledge on his part.

16 Furthermore, a Defendant need not have joined in all of  
17 the conspiracy's unlawful objectives. Once a conspiracy is  
18 established, even a slight connection between a Defendant and  
19 the conspiracy is sufficient to include him in the plan. And  
20 one who joins an ongoing conspiracy is deemed to have adopted  
21 the prior acts and declarations of the conspirators made after  
22 the formation and in furtherance of the conspiracy.

23 A conspiracy continues so long as acts in furtherance of  
24 this purpose are done. For example, distribution of the  
25 proceeds of the conspiracy is an act occurring during the

1 pendency of a conspiracy. Further, action is taken to protect  
2 the proceeds of a robbery represent an act in furtherance of  
3 the conspiracy. The extent of a Defendant's participation has  
4 no bearing on the issue of his guilt.

5 A conspirator's liability is not measured by the extent  
6 or duration of his participation. Indeed, each member may  
7 perform separate and distinct acts and may perform them at  
8 different times. Some conspirators play major roles, while  
9 others play minor roles in the scheme.

10 An equal role is not what the law requires. In fact,  
11 even a single act may be sufficient to draw a Defendant within  
12 the ambit of the conspiracy.

13 I want to caution you, however, that a Defendant's mere  
14 presence at the scene of the alleged crime, does not, by  
15 itself, make him a member of the conspiracy. Similarly, mere  
16 association with one or more members of the conspiracy, does  
17 not automatically make a Defendant a member.

18 A person may knowingly or be friendly or may know or be  
19 friendly with a criminal without being a criminal himself.  
20 Mere similarity of conduct, or the fact that they may have  
21 assembled together and discussed common aims and interest,  
22 does not necessarily establish proof of the existence of a  
23 conspiracy.

24 If, on the other hand, you find beyond a reasonable doubt  
25 that the Defendant knew about the plan to commit a robbery,

1 and agreed to participation, you should find the Defendant  
2 guilty. I also want to caution you that mere knowledge or  
3 acquiesce without participation in the unlawful plan is not  
4 sufficient.

5 Moreover, the fact that the acts of the Defendant without  
6 knowledge merely happened to further the purposes or  
7 objectives of the conspiracy, does not make him a member.  
8 More is required under the law. What is necessary is that the  
9 Defendant must have participated with knowledge of at least  
10 some of the purposes or objectives of the conspiracy and with  
11 the intention of aiding in the accomplishment of the unlawful  
12 ends.

13 In some, the Defendant with an understanding of the  
14 unlawful character of the conspiracy must have intentionally  
15 engaged, advised, or assisted in it for the purpose of  
16 furthering the illegal undertaking. He thereby becomes a  
17 knowing and willing participant in the unlawful agreement.  
18 That is to say a conspirator.

19 You will recall that I have admitted into evidence  
20 against the Defendant acts of others, because of these acts  
21 were committed by persons who the Government charges were also  
22 confederates or co-conspirators of the Defendant on trial.  
23 The reason for allowing this evidence to be received against  
24 the Defendant has to do with the nature of the crime of  
25 conspiracy.

1           A conspiracy is often referred to as a partnership in  
2     crime. Thus, as in other types of partnerships when people  
3     enter into a conspiracy to accomplish an unlawful end, each  
4     and every member becomes an agent for the other conspirators  
5     in carrying out the conspiracy.

6           Accordingly, the reasonably foreseeable acts of any  
7     members of the conspiracy, and in furtherance of the common  
8     purpose of the conspiracy, are deemed under law to be the acts  
9     of all of the members. And all of the members are responsible  
10    for such acts. If you find beyond a reasonable doubt that the  
11    Defendant was a member of the conspiracy charged in the  
12    indictment, then any acts done in furtherance of the  
13    conspiracy by persons also found by you to have been members  
14    of that conspiracy may be considered against the Defendant.

15          This is so even if such acts were done in the Defendant's  
16    absence, and without his knowledge. However, before you may  
17    consider the acts of a co-conspirator in deciding the issue of  
18    the Defendant's guilt, you must first determine that the acts  
19    were made during the existence, and in furtherance of the  
20    unlawful scheme.

21          If the acts were done by someone whom you do not find to  
22    have been a member of the conspiracy, or if they were not done  
23    in furtherance of the conspiracy, they may not be considered  
24    by you as evidence, only against the member who did them.

25          Just bear with me, I know this is time consuming, but I

1 have to keep reading through this with you, and we do our very  
2 best to narrow it, I can assure you. So why don't you all  
3 take a stand -- now, you will stand for a minute as I've told  
4 you, not Mr. Purpura's call, but your call, just stand and  
5 stretch for a minute. And I can assure you that this is very  
6 important, and I know it's tedious. One juror one time said  
7 to me, this is mind numbing, and that's part of the reason why  
8 we hand out copies of this to every juror, because of her  
9 suggestion. So everyone would be able to look at it when you  
10 start to discuss the matter, and you can read through it next.  
11 So just take a deep breath for a second.

12 (Brief pause.)

13 Okay. With that, you may be seated again.

14 Now, as to Count 1, on the amounts of the controlled  
15 substance. If you find that the Government has proven the  
16 Defendant guilty of the conspiracy charged in Count 1, then  
17 there is one more issue that you must decide. I provided you  
18 with a special verdict form, and you'll see to it that if you  
19 determine that the Defendant is guilty on Count 1, then there  
20 is a question about what the drug quantity is, and you'll see  
21 this -- and your foreperson will fill out, we'll go over that  
22 in a minute, your foreperson will fill out the verdict form,  
23 and I'm giving a copy to everyone to also have the verdict  
24 form so you can see how we go through this.

25 I've provided you with a special verdict form asking you

1 to fill in the amount of the heroin that the Defendant  
2 conspired to distribute. The burden is on the Government to  
3 establish the amount of heroin beyond a reasonable doubt.  
4 Remember, you should address the issue and complete the form  
5 only if you find the Defendant guilty of the conspiracy  
6 charged in Count 1.

7 In determining the quantity of heroin attributable to the  
8 Defendant, you should consider the following factors. First,  
9 the Defendant is accountable for any quantity of heroin which  
10 he personally distributed or possessed with intent to  
11 distribute.

12 Second, the Defendant is also accountable for any  
13 quantity of heroin which he attempted to or planned to  
14 distribute or possessed with intent to distribute,  
15 specifically, he is accountable for that quantity of heroin,  
16 even if it was never actually distributed, so long as an  
17 objective of the conspiracy was for the Defendant to  
18 distribute or possess with intent to distribute that quantity  
19 of drugs.

20 Third, the Defendant is also accountable for any quantity  
21 of heroin which another member of the conspiracy distributed  
22 or possessed with intent to distribute as part of the  
23 conspiracy. So long as it was reasonably foreseeable to the  
24 Defendant that such a quantity of heroin would be involved in  
25 the conspiracy which he joined.



1 Fourth, he is also accountable for any quantity of  
2 heroin, which another member of the conspiracy attempted to,  
3 or planned to distribute, or possessed with intent to  
4 distribute, so long as it was reasonably foreseeable to the  
5 Defendant that such a quantity of heroin would be involved in  
6 the conspiracy which he joined.

7 A Defendant is accountable for those drugs, even if  
8 those drugs were never actually obtained or distributed by  
9 other members of the conspiracy, so long as an objective of  
10 the conspiracy was for the others members of the conspiracy to  
11 distribute or possess with intent to distribute such a type  
12 and quantity of drugs.

13 These last two rules apply even if the Defendant did not  
14 personally participate in the acts or plans of his  
15 co-conspirators, or even if the Defendant did not have actual  
16 knowledge of those acts or plans, so long as those acts or  
17 plans were reasonably foreseeable to the Defendant, and were  
18 committed by his co-conspirators in furtherance of the  
19 conspiracy.

20 The reason for this is simply that a co-conspirator is  
21 deemed to be an agent of all other members of the conspiracy.  
22 Therefore all of the co-conspirators bear criminal  
23 responsibility for acts or plans that are undertaken to  
24 further the goals of the conspiracy.

25 Your findings about the quantity of heroin attributable

1 to the Defendant will be noted on the verdict form, which I  
2 will discuss, hopefully, in a few minutes.

3 All right. That's it as to Count 1. There are no more  
4 instructions as to Count 1. And there must be seven of them  
5 that all lined up now. Just look at them as you wish, but  
6 that's the end as to Count 1.

7 Now, Count 2, possession with the intent to distribute  
8 narcotics. Count 2 of the indictment charges the Defendant  
9 with the possession of a controlled substance with the intent  
10 to distribute it. The indictment reads as follows: On or  
11 about May 27, 2015, in the District of Maryland, the  
12 Defendant, Andre Ricardo Briscoe, knowingly and intentionally  
13 possessed with intent to distribute, a mixture or substance  
14 containing a detectable amount of heroin, a Schedule I  
15 controlled substance.

16 The Defendant is charged with violating the Drug Abuse  
17 Prevention and Control Act. That law makes it a crime for any  
18 person knowingly or intentionally to manufacture, distribute,  
19 or dispense or possess with intent to manufacture, distribute,  
20 or dispense a controlled substance.

21 In order to prove this charge against the Defendant, the  
22 Government must establish beyond a reasonable doubt each of  
23 the following three elements. Three elements of this offense.  
24 First, that the Defendant possessed narcotic drugs. Second  
25 that the Defendant knew that he possessed narcotic drugs. And

1 third, that the Defendant possessed the narcotic drugs with  
2 the intent to distribute them.

3 The first element the Government must prove beyond a  
4 reasonable doubt is to establish guilt on Count 2, is that the  
5 Defendant possessed narcotic drugs. To establish this  
6 element, the Government must prove that the material that the  
7 Defendant is charged with possessing is, in fact, narcotics.  
8 The Government may prove this through either direct evidence  
9 or through circumstantial evidence. An example of direct  
10 evidence is the testimony of a chemist who has done a chemical  
11 analysis of the material.

12 Circumstantial evidence, would be evidence in which you  
13 can infer that the material was heroin, such as testimony  
14 concerning the names used by the Defendant to refer to the  
15 material or testimony about the material's appearance.  
16 Whether the Government relies on direct or circumstantial  
17 evidence to prove that the material at issue was narcotics, it  
18 must prove so by a reasonable doubt.

19 As I've instructed you, the Government must prove beyond  
20 a reasonable doubt that the Defendant possessed the drugs.  
21 The legal concept of possession may differ from the everyday  
22 use of the term, so I will explain it in some detail.

23 Actual possession is what most of us think of as  
24 possession, that is physical custody or control of an object.  
25 For example, if you find that the Defendant had the drugs on

1 his person, you may find that he had possession of the drugs.  
2 However, a person need not have actual physical custody of an  
3 object in order to be in legal possession of it.

4 If an individual has the ability and intent to exercise  
5 substantial control over an object that he does not have in  
6 his physical custody, then he is in possession of that item.  
7 An example of this from everyday experience would be a  
8 person's possession of items he keeps in the safe deposit box  
9 of his bank.

10 Although the person does not have physical custody of  
11 those items, he exercises substantial control over them, and  
12 still has legal possession of them.

13 The law also recognizes that possession may be sole or  
14 joint. If one person alone possesses something that is sole  
15 position. However, it is possible that more than one person  
16 may have the power and intention to exercise control over the  
17 drugs. This is called joint possession. If you find that the  
18 Defendant had such power and intention that he possessed the  
19 drugs under this element, even if he possessed the drugs  
20 jointly with another. Possession of drugs cannot be found  
21 solely on the ground that the Defendant was near or close to  
22 the drugs. Nor can it be found simply because the Defendant  
23 was present at a scene where drugs were involved, or solely  
24 because the Defendant is associated with a person who did  
25 control the drugs or the property when they were found.

1           However, these factors may be considered by you in  
2           connection with all other evidence in making your decision  
3           whether the Defendant possessed the drugs.

4           The second element the Government must prove beyond a  
5           reasonable doubt is that the Defendant knew that he possessed  
6           narcotics. To establish this element, the Government must  
7           prove that the Defendant knew or that he possessed narcotics,  
8           and that his possession was not due to carelessness,  
9           negligence or mistake.

10          If you find that the Defendant did not know that he had  
11          narcotics in his possession, or that he didn't know that what  
12          he possessed was, in fact, narcotics, then you must find the  
13          Defendant not guilty.

14          Although the Government must prove that the Defendant  
15          knew that he possessed narcotics, the Government does not have  
16          to prove that the Defendant knew the exact nature of the drugs  
17          in his possession. It is enough that the Government proves  
18          that the Defendant knew that he possessed some kind of  
19          narcotic.

20          The third element the Government must prove beyond a  
21          reasonable doubt, and we're still on Count 2, is that the  
22          Defendant possessed narcotics with the intent to distribute.  
23          To prove the third element this way, the Government must  
24          prove, beyond a reasonable doubt that the Defendant had  
25          control over the drugs, with the state of mind or purpose to

1 transfer them to another person. The same considerations that  
2 apply to your determination, whether the Defendant knew he  
3 possessed narcotics apply to your decision concerning the  
4 Defendant's intention to distribute them.

5 Since you cannot read the Defendant's mind, you must make  
6 inferences from his behavior. However, you may not convict  
7 the Defendant unless these inferences convince you beyond a  
8 reasonable doubt that the Defendant intended to distribute the  
9 narcotics.

10 When I say that you must find that the Defendant intended  
11 to distribute the narcotics, this does not mean that you must  
12 find that the Defendant intended personally to distribute or  
13 deliver the drugs. It is sufficient if you find that the  
14 Defendant intended to cause or assist the distribution of the  
15 narcotics. Basically, what you're determining is whether the  
16 drugs in the Defendant's possession were for his personal use,  
17 or for the personal use -- or for the purpose of distribution.  
18 Often, it is possible to make this determination from the  
19 quantity of drugs found in the Defendant's possession.

20 For example, it would be highly unlikely that a person  
21 with 50,000 doses of amphetamine possessed them all for  
22 personal consumption. The possession of a large quantity of  
23 narcotics does not necessarily mean that the Defendant  
24 intended to distribute them. On the other hand, a Defendant  
25 may have intended to distribute narcotics, even if he did not

1 possess a large amount of them.

2 Other physical evidence such as paraphernalia from the  
3 packaging or processing of drugs can show such an intent.

4 There might also be evidence of a plan to distribute. You  
5 should make your decision whether the Defendant intended to  
6 distribute the narcotics in his possession from all of the  
7 other evidence presented.

8 If you do not find the Defendant guilty of the  
9 substantive crime charged in Count 2 as to the possession with  
10 intent to distribute, you will be asked to determine whether  
11 the Government has proven beyond a reasonable doubt, that the  
12 Defendant committed the offense of attempted possession with  
13 intent to distribute heroin.

14 In order to prove the charge of attempting to commit the  
15 crime of possession with intent to distribute heroin, the  
16 Government must prove the following two elements beyond a  
17 reasonable doubt.

18 First, that the Defendant intended to commit the crime of  
19 possession with intent to distribute heroin. And second, that  
20 the Defendant did some act that was a substantial step in an  
21 effort to bring about or accomplish the crime. Mere intention  
22 to commit a specific crime does not amount to an attempt. In  
23 order to convict the Defendant of an attempt, you must find,  
24 beyond a reasonable doubt, that the Defendant intended to  
25 commit the crime charged, and that he took some action, which

1 would was a substantial step toward the Commission of that  
2 crime. In determining whether the Defendant's actions  
3 amounted to a substantial step towards the commission of the  
4 crime, it is necessary to distinguish between mere preparation  
5 on the one hand, and the actual doing of the criminal deed on  
6 the other. Mere preparation, which may consist of planning  
7 the offense, or of devising, obtaining a range and a means for  
8 his commission is not an attempt, although some preparations  
9 may amount to an attempt, the act of a person who intends to  
10 commit a crime will constitute an attempt when the acts  
11 themselves clearly indicate an attempt and intent to commit  
12 the crime, and the acts are a substantial step in a course of  
13 conduct planned to culminate in the commission of a crime.

14 And I would note that you don't even get to this issue if  
15 you answer guilty on Count 2, then you disregard Part B and  
16 move to Count 3. But if you answer not guilty as to Count 2,  
17 then you must address the issue of attempt, as I've explained  
18 to you just now.

19 As to Count 3, a felon in possession. The indictment  
20 charges the Defendant with being a felon, being a person  
21 convicted of a crime punishable by more than one year in  
22 prison who possessed a weapon shipped in interstate commerce,  
23 the indictment specifically reads as follows:

24 On or about May 27, 2015, in the District of Maryland,  
25 the Defendant Andre Ricardo Briscoe knowing he had previously



1     been convicted of a crime, punishable by imprisonment for a  
2     term exceeding one year, knowingly possessed a firearm and  
3     ammunition to with one para ordinance .45 caliber pistol,  
4     bearing serial number RK8433, and approximately five rounds of  
5     .45 caliber Winchester brand ammunition, and the firearm and  
6     ammunition were in and affecting commerce.

7             The relevant statute on the subject is Section 922(g) of  
8     Title 18 of the United States Code, which provides it should  
9     be unlawful for any person who has been convicted in any court  
10    of a crime punishable by imprisonment for a term exceeding one  
11    year, to possess in or affecting interstate commerce --  
12    possess in or affecting commerce, any firearm or ammunition or  
13    to receive any firearm or ammunition which has been shipped or  
14    transported in interstate or foreign commerce.

15            The Government must prove each of the following elements  
16    beyond a reasonable doubt in order to sustain its burden of  
17    providing the Defendant guilty on Count 3. First, that the  
18    Defendant was convicted, and knew that even so convicted in  
19    any court of a crime punishable by imprisonment for a term  
20    exceeding one year, and that his civil rights had not been  
21    restored.

22            And second, that the Defendant possessed the firearm as  
23    charged. And third, the possession charge was in or affecting  
24    interstate or foreign commerce. The first element the  
25    Government must prove beyond a reasonable doubt, is that prior

1 to the date charged in the -- prior to the date the  
2 Defendant's charged with possessing the firearm, the Defendant  
3 had a been convict of a crime punishable by imprisonment for a  
4 term exceeding one year, and that the state has not restored  
5 the Defendant's civil rights following that conviction.

6 The parties here have stipulated that prior to May 27,  
7 2015, the Defendant Andre Ricardo Briscoe, Jr., had been  
8 convicted of a crime punishable by imprisonment for a term  
9 exceeding one year as defined in 18 United States Code §921.  
10 Furthermore, prior to May 27th, 2015, the Defendant knew of  
11 his prior conviction of a crime punishable by imprisonment for  
12 a term exceeding one year, and further knew that his civil  
13 rights felony conviction included his right to possess a  
14 firearm, had not been restored.

15 I instruct you that the prior conviction that is an  
16 element of this charge here, is only to be considered by you  
17 for the fact that it exists, and for nothing else. You are  
18 not to consider it for any other purpose. You may not  
19 consider the prior conviction in deciding whether or not -- or  
20 whether it is more likely than not that the Defendant was in  
21 knowing possession of the firearms that are charged, which is  
22 a disputed element of the offense.

23 The second element the Government must prove beyond a  
24 reasonable doubt with respect to Count 3, is that on or about  
25 the date set forth in the indictment, the Defendant knowingly

1 possessed a firearm. A firearm is any weapon that will or is  
2 designed to or may readily -- or may be readily converted to  
3 expel a projectile by the action of an explosive. To possess  
4 means to have something within a person's control. This does  
5 not necessarily mean that the Defendant must hold it  
6 physically, that is have actual possession of it, as long as  
7 the firearm is within the Defendant's control, and he  
8 possesses it. If you find that the Defendant either had  
9 actual possession of the firearm, or that he had the power and  
10 intention to exercise control over it, even though it was not  
11 in his physical possession, you may find that the Government  
12 has proven possession.

13 The law also recognizes that possession may be sole or  
14 joint. If one person alone possesses it, that is sole  
15 possession. However, it is possible that more than one person  
16 may have the power and intention to exercise control over the  
17 firearm. This is called joint possession. If you find that  
18 the Defendant had such power and intention, that he possessed  
19 the firearm under this element, even if he possessed it  
20 jointly with another.

21 Proof of ownership of the firearm is not required. To  
22 satisfy this element, you must also find that the Defendant  
23 knowingly possessed the firearm. This means that he possessed  
24 the firearm purposely and voluntarily, and not by accident or  
25 mistake. It also means that he knew the weapon was a firearm

1 as we commonly use the word. However, the Government is not  
2 required to prove that the Defendant knew that he was breaking  
3 the law.

4 The third element the Government must prove beyond a  
5 reasonable doubt is that the firearm the Defendant is charged  
6 with possessing was in or affecting interstate commerce. The  
7 parties have entered into a stipulation that there was, in  
8 fact, an effect on interstate commerce. Okay. Getting there,  
9 I promise. Another 20 minutes, perhaps.

10 Counts 4 and 5, use of a firearm during and in relation  
11 to a predicate crime resulting in death. Both the indictment  
12 and the statute. It's entitled here, and it's on page 74.  
13 The Defendant is charged with using a firearm to commit or  
14 carrying a firearm during the commission of or possession of a  
15 firearm in furtherance of a crime of violence, or a drug  
16 trafficking crime.

17 Count 4 reads as follows, on or about May 27, 2015, in  
18 the District of Maryland, the Defendant, Andre Ricardo Briscoe  
19 unlawfully and knowingly used, carried and discharged the  
20 firearm during and in relation to one, the drug trafficking  
21 crime charged in Count 1 for which a Defendant may be  
22 prosecuted in a court of the United States.

23 Two, the drug trafficking crime alleged in Count 2 for  
24 which a Defendant may be prosecuted in a court of the United  
25 States. And three, a crime of violence for which a Defendant

1 may be prosecuted in a court of the United States,  
2 specifically affecting commerce by robbery in violation of 18  
3 United States Code §1951(a), and possessed a firearm in  
4 furtherance of said crimes in violation of 18 United States  
5 Code §924(c). And in the course of that violation, caused the  
6 death of Jennifer Jeffrey, through the use of a firearm in  
7 which the killing was a murder, as defined in count -- at 18  
8 U. S. C §1111.

9 Count 5 contains identical language as that contained in  
10 Count 4, but for the name of the victim. And specifically, in  
11 lieu of quote, caused the death of Jennifer Jeffrey, Count 5  
12 reads, caused the death of K.B., the initials K.B., Jennifer  
13 Jeffrey's seven-year-old son. The relevant statute on this  
14 subject is Title 18 United States Code §924(c), which provides  
15 a person who during and in relation to any crime of violence  
16 or drug trafficking crime for which the person may be  
17 prosecuted in a court of the United States, uses or carries a  
18 firearm, or who in furtherance of such crime possesses a  
19 firearm shall be guilty of a crime.

20 Counts 4 and 5 in terms of the elements. The Government  
21 must prove each of the following elements beyond a reasonable  
22 doubt to sustain this burden of proving the Defendant guilty  
23 on Counts 4 or 5.

24 First, that the Defendant committed a predicate crime,  
25 that is either a crime of violence, or a drug trafficking

1 crime for which he might be prosecuted in a Court of the  
2 United States.

3 Second, that the Defendant knowingly used or carried or  
4 discharged a firearm during and in relation to the commission  
5 of a predicate crime, or knowingly possessed a firearm in  
6 furtherance of the predicate crime. Here the predicate crime  
7 charged were one, the drug trafficking crime alleged in Count  
8 1 of the indictment.

9 Two, the drug trafficking crime alleged in Count 2 of the  
10 indictment. And 3, a crime of violence specifically affecting  
11 commerce by robbery about which I'll explain to you in a  
12 moment.

13 Third, that the Defendant discharged the firearm. The  
14 first element the Government must prove beyond a reasonable  
15 doubt is that the Defendant committed what is known as a  
16 predicate crime, either a drug trafficking crime or a crime of  
17 violence for which he might be prosecuted in a court of the  
18 United States. There are three predicated crimes that can  
19 satisfy this element of counts 4 and 5.

20 The Government need not prove all three predicate crimes  
21 so as long as you find unanimously beyond a reasonable doubt  
22 that the Defendant committed one of these predicate crimes.  
23 The first predicate crime that the Defendant is charged with  
24 committing is the drug trafficking crime charged in Count 1 of  
25 the indictment. That is conspiracy to distribute and possess

1 with intent to distribute narcotics as previously explained to  
2 you. The second predicate crime is the drug trafficking crime  
3 charged in Count 2 of the indictment. Possession with the  
4 intent to distribute narcotics which I've also previously  
5 explained.

6 The third predicate crime is that the Defendant committed  
7 a crime of violence, specifically interference to commerce by  
8 robbery, commonly referred to as Hobbs Act Robbery. I  
9 instruct you that Hobbs Act Robbery is a crime of violence.  
10 However, it is for you to determine that the Government has  
11 proven beyond a reasonable doubt that the Defendant committed  
12 a Hobbs Act Robbery to satisfy this element of Counts 4 and 5.  
13 I will instruct you on the elements of Hobbs Act Robbery in a  
14 moment.

15 The second element the Government must prove beyond a  
16 reasonable doubt is that the Defendant knowingly used or  
17 carried a firearm during and in relation to the commission of  
18 one of the predicate crimes that I just described, or  
19 knowingly possessed a firearm in furtherance of the predicate  
20 crime.

21 You must next determine whether the use, carry, or  
22 possession, as defined below also involved discharging the  
23 firearm. A firearm is any weapon which will or is designed to  
24 or may be readily converted to expel a projectile by the  
25 action of an explosive. Knowing means that the firearm was

1 carried purposely and voluntarily and not by accident or  
2 mistake. It also means that he knew the weapon was a firearm  
3 as we commonly use the word.

4 To prove use of the firearm, the Government must prove an  
5 active employment of the firearm by the Defendant. This does  
6 not mean that the Defendant must actually fire or attempt to  
7 fire the weapon, although those actions would, of course,  
8 constitute use of the weapon. In brandishing, displaying, or  
9 even referring to the weapon, so that others present knew that  
10 the Defendant had the firearm available if needed, all  
11 constitute use of the firearm.

12 However, the mere possession of a firearm at or near the  
13 site of the crime without active employment as I just  
14 described is not sufficient to constitute use of the firearm.

15 To prove carrying of the firearm, the Government must  
16 prove beyond a reasonable doubt that the Defendant had the  
17 weapon within his control, in such a way that it furthered the  
18 commission of the crime of violence, or was an integral part  
19 of the commission of the crime.

20 It is not necessary to hold the firearm physically, that  
21 is have actual possession of it on one's person. If you find  
22 that the Defendant had dominion and control over the place  
23 where the firearm is located, and had the power and intention  
24 to exercise control over the firearm in such a way that it  
25 furthered the commission of the crime of violence, you may



1 find that the Government has proven that the weapon was  
2 carried. To prove possession of a firearm, the Government  
3 must prove that the Defendant had possession of the firearm,  
4 and that such possession was in furtherance of the predicate  
5 crime.

6 Possession means either physical possession of the  
7 firearm on one's person, or that the person had dominion and  
8 control over the place where the firearm was located, and had  
9 the power and intention to exercise control over the firearm.

10 To possess a firearm in furtherance of a crime means that  
11 the firearm helped forward, advance, or promote the commission  
12 of the crime. The mere possession of the crime or the scene  
13 of the crime is not sufficient under this definition. The  
14 firearm must have been displayed at some part in furthering  
15 the crime in order for this element to be satisfied. To prove  
16 discharging the third element, the Government must prove that  
17 the Defendant fired the gun.

18 The predicate crime of violence referenced in Counts 4  
19 and 5 of the indictment is interference with commerce through  
20 robbery in violation of Section 1951 of Title 18 of the United  
21 States Code, commonly referred to as Hobbs Act Robbery.

22 That statute in pertinent part provides whoever in any  
23 way or degree obstructs the ways or effects commerce or the  
24 movement of an article of commodity in commerce by robbery or  
25 attempts or conspires so to do, or commits or threatens

1 physical violence to any person or property in furtherance of  
2 a plan or purpose to do anything in violation of this section  
3 commits a crime.

4 Robbery is the unlawful taking or obtaining of personal  
5 property of another against his or her will by threatening or  
6 actually using force, violence, or fear of injury immediately  
7 or in the future to personal property.

8 The first element the Government's proved beyond a  
9 reasonable doubt, we're still on Counts 4 and 5 for a Hobbs  
10 Act Robbery in violation of 18 United States Code Section  
11 1951, is that the Defendant knowingly obtained or took the  
12 personal property of another, or from the presence of another.

13 The term property includes money and other tangible  
14 intangible things of value that are capable of being  
15 transferred from one person to another.

16 The second element the Government must prove beyond a  
17 reasonable doubt for a Hobbs Act Robbery, is that the  
18 Defendant took this property against the victim's will by  
19 actual or threatened force, violence, or fear of injury,  
20 whether immediately or in the future. In considering whether  
21 force, violence, or fear was planned to be or actually used or  
22 threatened during the robbery, you should give those words  
23 their common and ordinary meaning, and understand them as you  
24 normally would. The violence does not have to be directed at  
25 the person whose property was taken, the use or threat of

1 force or violence might be aimed at a third person, or at  
2 causing economic, rather than physical injury.

3 A threat may also be made verbally or by a physical  
4 gesture. Whether a statement or physical gesture by the  
5 Defendant actually was a threat depends upon the surrounding  
6 facts. As I've just instructed you, you must determine  
7 whether the Defendant knowingly and willfully threatened to  
8 use force, violence, fear to unlawfully obtain property.

9 The third element you must then decide is whether the  
10 actions of the Defendant, or his accomplices or  
11 co-conspirators affected interstate commerce in any way or  
12 degree. If you decide that the Defendant obtained another's  
13 property against his or her will by the use of threat or  
14 force, violence or fear of injury, you must then decide  
15 whether this action would affect interstate commerce in any  
16 way or degree. You must determine whether there's an actual  
17 or potential effect on commerce between two or more states or  
18 on commerce within one state that goes through any place  
19 outside that state.

20 The Government's claim here is that narcotics were taken  
21 from the victim, and that those narcotics were assets of a  
22 narcotics business and not purely personal assets. An affect  
23 or attempt to affect even the interstate sale -- even the  
24 intrastate sale, within state sale of narcotics is a  
25 sufficient effect on interstate commerce.

1           Thus it is enough that the Defendant knowingly stole or  
2           attempted to steal drugs or drug proceeds from a drug dealer  
3           to satisfy this amount. Thus it is enough that Defendant  
4           knowingly stole or attempted to steal drugs or drug proceeds  
5           from a drug dealer to satisfy this amount.

6           You do not have to find that interstate commerce was  
7           actually affected. You do not have to decide whether the  
8           affect with interstate commerce was harmful or beneficial to a  
9           particular business or to commerce in general.

10          The Government satisfies its burden of proving an effect  
11          with interstate commerce if it proves, beyond a reasonable  
12          doubt, any effect whether it is harmful or not. The  
13          Defendant need not have intended or anticipated an effect on  
14          interstate commerce. You may find that the affect is a  
15          natural consequence of his actions.

16          If you find that the Defendant intended to take certain  
17          actions, that is that he did the acts charged in the  
18          indictment in order to obtain property, and you find those  
19          actions have either caused or would have probably caused an  
20          effect on interstate commerce, then you may find the  
21          requirements of this element have been satisfied.

22          All right. We're now on the last count. By the way,  
23          I'll be talking to the lawyers in a moment, but don't think  
24          we're going to keep you here tonight trying to deliberate,  
25          you're going to want to come back tomorrow morning to

1 deliberate. So we're not going to keep you late here tonight.

2 Count 6, killing a witness to prevent communication to  
3 law enforcement, the indictments and the statute. The  
4 Defendant has been charged in the indictment with killing  
5 K.B., Jennifer Jeffrey's seven-year-old child in order to  
6 prevent K.B. from providing information to Federal law  
7 enforcement officers.

8 The indictment reads as follows: And this is as to  
9 Count 6, the last count. "On or about May 27th, 2015, in the  
10 District of Maryland, the Defendant Andre Ricardo Briscoe  
11 unlawfully, knowingly and intentionally killed a person with  
12 the intent to prevent the communication by any person to a law  
13 enforcement officer information related to the commission and  
14 commission of a Federal offense. Namely, the Defendant killed  
15 Jennifer Jeffrey's seven-year-old child, K.B., by shooting  
16 K.B. multiple times, including in the head and mouth, which  
17 killing was first degree murder as defined in 18 United States  
18 Section Code §1111."

19 The relevant statutes on this subject are 18 United  
20 States Code §1512, Subpart (a)(1)(C) and 1111(a) that I just  
21 mentioned. Section 1512 (a)(1)(C) provides whoever kills or  
22 attempts to kill another person with intent to prevent the  
23 communication by any persons to a law enforcement officer or  
24 judge of the United States of information relating to the  
25 commission of a possible commission of a Federal offense or a

1 violation of conditions of probation, supervised release,  
2 parole or release pending judicial proceedings shall be guilty  
3 of that crime.

4 Section 1111(a) provides murder is the unlawful killing  
5 of a human being with malice aforethought. Every murder  
6 perpetrated by poison, lying in wait, or any other kind of  
7 willful, deliberate, malicious and premeditated killing are  
8 committed in the perpetration of or attempt to perpetrate, any  
9 arson, escape, murder, kidnapping, treason, espionage,  
10 sabotage, aggravated sexual abuse, or sexual abuse, child  
11 abuse, burglary or robbery, or perpetrated as part of a  
12 pattern or practice of assault or torture against a child or  
13 children, or perpetrated from a premeditated design unlawfully  
14 or maliciously to affect the death of any human being other  
15 than him who is killed, is murdered in the first degree.

16 This statute is designed to protect persons who are  
17 victims of Federal crimes. Persons who may be called to  
18 testify or give evidence in a Federal proceeding of either  
19 civil or criminal, and persons who have information about  
20 federal crimes.

21 In order to prove the Defendant guilty of the crime  
22 charged in Count 6 of the indictment, the Government must  
23 prove each of the following elements beyond a reasonable  
24 doubt. First, that the Defendant killed K.B., and second that  
25 the Defendant killed K.B. with the intent to prevent the

1 communication by any person to a Federal law enforcement  
2 officer relating to the commission or possible commission of a  
3 Federal crime.

4 The first element the Government must prove beyond a  
5 reasonable doubt is that the Defendant killed K.B., and that  
6 the Defendant did so in violation of 18 United States Code  
7 §1111(a) first degree murder. I will instruct you on the  
8 elements of first degree murder in a moment.

9 The second element the Government must prove beyond a  
10 reasonable doubt is that the Defendant killed K.B. with the  
11 intent to permit -- to prevent the communication by any person  
12 to a Federal law enforcement officer or judge relating to the  
13 commission or possible commission of a federal crime. If you  
14 find that the Defendant acted with the intent to prevent  
15 communication by K.B. to a specific law enforcement officer or  
16 group of officers, this element is satisfied, if that officer  
17 or one of the group of officers was a Federal law enforcement  
18 officer.

19 A Federal law enforcement officer is an officer or  
20 employee of the Federal government who is authored to act on  
21 behalf of the Federal government in the prevention, detection,  
22 investigation or prosecution of Federal crimes. The  
23 Government is not required to prove that the Defendant knew  
24 that the officer was a Federal law enforcement officer.

25 On the other hand, if you find that the Defendant was not

1 acting with the intent to prevent communication to a  
2 particular officer or group of officers, then this element is  
3 satisfied only if the Government proved beyond a reasonable  
4 doubt that there was a reasonable likelihood that had K.B.  
5 been able to communicate with law enforcement officers, at  
6 least one relevant communication would have been made to a  
7 Federal law enforcement officer.

8 To prove the Defendant guilty of Count 6, killing the  
9 witness to prevent communication to law enforcement, the  
10 Government need not prove that a Federal investigation was in  
11 progress at the time the Defendant committed the murder. Nor  
12 must the Government show that such a communication, had it  
13 occurred, would have been Federal beyond a reasonable doubt.

14 Rather, the Government need only show that the likelihood  
15 of communication to a Federal officer was more than remote,  
16 outlandish, or simply hypothetical.

17 As charged in Count 6 of the indictment, the killing of  
18 K.B. must also be in violation of 18 United States Code  
19 Section 1111, the murder statute. I already read Count 6 to  
20 you, the relevant statute on this subject is Section 1111 of  
21 title 18th United States code, which provides murder is the  
22 unlawful killing of a human being with malice aforethought.  
23 Every murder perpetrated by premeditated killing is murder in  
24 the first degree.

25 To prove murder in the first degree in violation of 18



1 United States Code Section 1111, the Government must establish  
2 each of the following elements beyond a reasonable doubt.

3 First, that the Defendant unlawfully killed K.B. as charged in  
4 the indictment.

5 Second, that the Defendant acted with malice  
6 aforethought.

7 And third, the Defendant acted with premeditation.

8 The first element the Government's proving beyond a  
9 reasonable doubt is that the Defendant unlawfully killed K.B.  
10 as charged in the indictment. In this regard, it is the  
11 Government's burden to prove that the Defendant's conduct was  
12 the direct cause of K.B.'s death. This means simply that the  
13 Government must prove that the Defendant inflicted an injury  
14 or injuries upon the deceased from which the deceased died.  
15 An act is done unlawfully that was done without justification  
16 or excuse, while the taking of a human life is the most  
17 serious matter, not all killing, even when intentional is  
18 unlawful.

19 The second element the Government must prove beyond a  
20 reasonable doubt is that the Defendant acted with malice  
21 aforethought. Malice is a state of mind and can cause a  
22 person to act without regard to the life of another. To  
23 satisfy this element, the Government [sic] must have acted  
24 consciously with the intent to kill another person.

25 The third element the Government must prove beyond a

1 reasonable doubt is that the Defendant acted with  
2 premeditation, an act is done with premeditation if it is done  
3 upon planning or deliberation.

4 In order to satisfy this element, the Government must  
5 prove that the Defendant killed K.B. only after thinking the  
6 matter over, deliberating whether to act before committing the  
7 crime. There is no requirement that the Government prove that  
8 the Defendant deliberated for any particular period of time in  
9 order to show premeditation.

10 The amount of time needed for premeditation of a killing  
11 depends upon the person and the circumstances. It is  
12 sufficient to satisfy this element if you find that before he  
13 acted, the Defendant had a period of time to become fully  
14 aware of what he intended to do, and to think it over before  
15 he acted.

16 Counts 2 through 4. I have to go back on one matter,  
17 this has to do with aiding and abetting as to Counts 2, 3 and  
18 4. The Defendant is also charged in Counts 2 through 4. This  
19 doesn't apply to Counts 5 and 6 with the aiding and abetting  
20 statute. Aiding and abetting is a separate law which allows  
21 you to find the Defendant guilty of Counts 2 through 4, even  
22 if you do not believe that the Government has shown that the  
23 Defendant himself physically committed the crime with which he  
24 is charged.

25 Under the aiding and abetting statute, it is not

1 necessary for the Government to show that the Defendant act --  
2 Defendant himself physically committed the crime with which he  
3 is charged in order for the Government to sustain its burden  
4 of proof.

5 A person who aids or abets another to commit an offense  
6 is just as guilty of that offense as if he committed it  
7 himself. Accordingly, you may find the Defendant guilty of  
8 the offense charged, if you find beyond a reasonable doubt  
9 that the Government has proven that another person actually  
10 committed the offense with which the Defendant is charged, and  
11 that the Defendant aided or abetted that person in the  
12 commission of the offense.

13 As you can see, the first requirement is that you find  
14 that another person has committed the crime charged.  
15 Obviously, no one can be convicted of aiding or abetting the  
16 criminal acts of another if no crime was committed by the  
17 other person in the first place, but if you did find that a  
18 crime was committed, then you must consider whether the  
19 Defendant aided or abetted the commission of that crime.

20 In order to aid or abet another to commit a crime, it is  
21 necessary that the Defendant knowingly associate himself in  
22 some way with the crime, and that he participate in the crime  
23 by doing some act to help make the crime succeed.

24 To establish that the Defendant knowingly associated  
25 himself with the crime for Count 4, the Government must prove

1 that the Defendant had advanced knowledge that someone would  
2 be using or carrying a firearm during the commission of the  
3 drug trafficking crime, or crime of violence, that is the  
4 Hobbs Act Robbery.

5 To establish that the Defendant participated in the  
6 commission of the crime, the Government must prove he engaged  
7 in some affirmative conduct or overt act for the specific  
8 purpose of bringing about the crime. The mere presence of the  
9 Defendant where a crime is being committed, even coupled with  
10 the knowledge by the Defendant that a crime is being committed  
11 or merely associating with others who were committing the  
12 crime is not sufficient to establish aiding or abetting.

13 One who has knowledge that a crime is being committed or  
14 is about to be committed but inadvertently does something that  
15 aids in the commission of that crime is not an aider or  
16 abetter, an aider or abetter must show that the crime is being  
17 committed, and act in a way that intends to bring about the  
18 success of the criminal venture.

19 To determine whether this Defendant aided or abetted the  
20 commission of a crime with which he's charged, ask yourself  
21 these questions. Did he participate in the crime charged as  
22 something he wished to bring about? Did he knowingly  
23 associate himself with the criminal venture? Did he seek by  
24 his actions to make the criminal venture succeed? If he did,  
25 then the Defendant is an aider and abetter and therefore

1 guilty of the offense. If on the other hand you answered any  
2 of these questions as no, then the Defendant is not an aider  
3 and abetter, and you must find him not guilty.

4 Members of the jury, if you unanimously find the  
5 Defendant guilty of Count 5 or Count 6 of the indictment, this  
6 is the very end now in terms of findings. This is if you find  
7 the Defendant unanimously -- you find him -- unanimously find  
8 him guilty of Count 5 or Count 6 of the indictment, you must  
9 also consider and find unanimously whether the Government has  
10 proven beyond a reasonable doubt the following four facts.  
11 And this will be in the verdict sheet, you'll see it, it's  
12 here, whether the -- with respect to the victim K.B., whether  
13 the victim K.B. was younger than 14 years old at the time of  
14 the Defendant's commission of the crime. Whether K.B. died as  
15 a result of the offense. Whether the Defendant Andre Ricardo  
16 Briscoe in the course of committing the offense, intentionally  
17 killed victim K.B., intentionally inflicted on K.B. serious  
18 bodily injury resulting in his death. Intentionally  
19 participated in an act contemplating that the life of a person  
20 will be taken and intending that lethal force will be used in  
21 connection with a person other than one of the participants in  
22 the offense, and victim K.B. died as a result.

23 D, intentionally and specifically engaged in an act of  
24 violence, knowing that the act created a grave risk of death  
25 to a person, other than one of the participants in the

1 offense, such that participation in the act constituted a  
2 reckless disregard for human life, and the victim K.B. died as  
3 a direct result of the act, and whether Andre Ricardo Briscoe  
4 was 18 years or older at the time of the offense.

5 Your findings as to whether the Government has proved the  
6 existence beyond a reasonable doubt of each of these  
7 particular factors must be separate and unanimous as to each  
8 count. You have to consider Count 5 and Count 6 separately.  
9 With respect to the factors relating to the Defendant's  
10 intent, your finding must be based on the Defendant's personal  
11 actions and intent.

12 Intent or knowledge may be proved like anything else, you  
13 might -- may consider any statements made or acts done by the  
14 Defendant, and all of the facts and circumstances and  
15 evidence, which may aide in the determination -- in a  
16 determination of the Defendant's knowledge or intent. You  
17 may, but are not required to infer that a person intends the  
18 natural and probable consequences or acts knowingly done or  
19 knowingly omitted.

20 During your deliberations you should indicate whether you  
21 have unanimously found beyond a reasonable doubt each of the  
22 special findings as to each of Count 5 and 6 on the  
23 appropriate line on the verdict form.

24 All right. As to that, I've got a few more instructions  
25 to give you, but the verdict form is very clear in terms of

1 what I've just laid out. You determine -- you'll see checks  
2 as to guilt or not guilty -- guilty or not guilty as to Counts  
3 1 and 2. You will see the possession, Count 3. Count 4  
4 coming through, same thing. I already mentioned the matter of  
5 the attempt matter as to one count.

6 When you get to Count 5, you will see that if you find  
7 that Defendant discharged resulted in the death of K.B.,  
8 guilty or not guilty, and if you found he discharged in  
9 relation to a robbery affected commerce, guilty or not guilty.  
10 If you find him guilty of Count 5, then, then you go through  
11 parts C through H, and all of those I just listed.

12 If you were to find him not guilty of Count 5, then you  
13 disregard C through H, and it's pretty well -- it's pretty  
14 clear here, and the lawyers have worked on this by agreement  
15 in terms of the verdict sheet.

16 Count 6, killing a witness to prevent communication to  
17 law enforcement. Again, if you determine guilty or not  
18 guilty, and then if you find the Defendant guilty on Count 6,  
19 then you also deal with those other parts just as well, and  
20 then your foreperson will be signing the verdict sheet, and  
21 I'll get into that in a moment as well.

22 Okay. Then finally in conclusion, believe it or not, I  
23 think we're just about there, and you understand why you don't  
24 see this on television, but this is very important. It's very  
25 important.

1           You're about to go into the jury room and begin your  
2       deliberations. If during those deliberations you want to see  
3       any of the exhibits, they will be sent to you in the jury room  
4       upon request. If you want any of the testimony read -- if you  
5       want to have testimony read back that can also be done, but  
6       please remember that is always not easy to locate exactly what  
7       you might want. And you might have to be a specific as you  
8       possibly can in requesting exhibits or portions of testimony.  
9       Your request for exhibits are testimony. In fact, any  
10      communication with the court should be made to me in writing.  
11      You sign a note, your foreperson will sign the note and then  
12      give it to one of the marshals, and then I will respond to any  
13      questions or requests you have as promptly as I can by having  
14      you return to the courtroom, and I will answer and I'll have  
15      -- the lawyers will be here, and the Defendant will be here,  
16      and I will answer your question.

17           In any event, you do not tell me or anyone else how the  
18      jury stands on any of the counts as you go through these  
19      counts until after a unanimous verdict has been reached on all  
20      counts.

21           The Government to prevail must prove the essential  
22      elements by the required degree of proof as I've summarized in  
23      great detail as I've already explained in these instructions.  
24      If it succeeds, your verdict should be guilty, if it fails, it  
25      should be not guilty. To report a verdict, it must be



1 unanimous. That is, you must deliberate about each question  
2 on the verdict form that you've answered and render a  
3 unanimous decision. Your function is to weigh the evidence in  
4 the case and determine whether or not the Defendant is guilty,  
5 solely upon the basis of such evidence.

6 Each juror is entitled to his or her opinion. Each  
7 should, however, exchange views with his or her fellow jurors.  
8 That is a very purpose of jury deliberation, to discuss and  
9 consider the evidence, to listen to the arguments of fellow  
10 jurors. To present your individual views, to consult with one  
11 another or to reach an agreement based solely and wholly on  
12 the evidence.

13 If you can do so without violence to your own individual  
14 judgment. Each of you must decide the case for yourself after  
15 consideration with your fellow jurors of the evidence in the  
16 case, but you should not hesitate to change an opinion which  
17 after discussion with your fellow jurors, appears erroneous.

18 However, after carefully considering all of the evidence  
19 and the arguments of your fellow jurors, you entertain a  
20 conscientious view that differs from the others, you should --  
21 you're not to yield your convictions simply because you're  
22 outnumbered.

23 Your final verdict must reflect your conscientious  
24 convictions as to how the issue should be decided. Your  
25 verdict, whether guilty or not guilty, must be unanimous.

1 Now, when you retire, the lawyers have agreed in terms of my  
2 designation of a foreperson here, two of you have had prior  
3 jury service. Juror No. 5 has had prior jury service here in  
4 this Court in Federal Court, and I believe Juror No. 12, and  
5 that was five years ago, I believe, according to the Voir Dire  
6 question, Juror No. 12 had prior jury service about ten years  
7 ago in state court.

8 So we've agreed that Juror No. 5 shall be the foreperson  
9 here. And I thank everyone for their attention, we've  
10 definitely noted your attention as well.

11 When you retire, Juror No. 5 shall be your foreperson,  
12 that is the person who will preside over the deliberation, and  
13 who will be your spokesperson here in court. The foreperson  
14 runs the meeting, controls deliberations and communicates with  
15 the Court. If you need to communicate with me, it should be  
16 by written note signed by the foreperson.

17 A verdict form has been prepared for your convenience,  
18 and you will take this form to the jury room, and each of you,  
19 along with a copy of these instructions will have your own  
20 verdict form, only one form is filled out, but you can have it  
21 to go along with as you go a through the analysis.

22 You will take this jury -- this form to the jury room,  
23 and when you have reached unanimous agreement as to your  
24 verdict, you will have your foreperson to fill it in, and then  
25 date it and sign it. And after you have done so, please

1 advise the Court by sending a note through the court security  
2 officer, there will be a bailiff outside the door there that  
3 you have reached a verdict. When I receive that note, I shall  
4 have you return with your verdict to the courtroom, then that  
5 note will be given to the clerk of the court, I will look at  
6 it, I will hand it back to Mr. Gurevich, who will then hand it  
7 to the foreperson, and then the foreperson will respond to his  
8 questions in terms of the verdict for each one of these  
9 counts.

10 With that ladies and gentlemen, do not discuss this in  
11 any way yet, I just want you to go into the jury room for a  
12 moment. I just need to go over some preliminary matters.  
13 We're not going to keep you here late tonight at all, I'm just  
14 going to go over some scheduling matters, and a few things.

15 Everyone step into the jury room, including the  
16 alternates, everyone stays together, and I'll have you come  
17 back out in a second.

18 (Jury exits courtroom 3:54 p.m.)

19 **THE COURT:** Counsel, ordinarily if we weren't taking  
20 the precautions here for COVID, I would have you all come to  
21 the bench, I would just have you verify that there were no  
22 mistakes read, or any additional objections. You preserved  
23 any objections you had during the charge conference.

24 From the point of view of the Government, were there any  
25 mistakes or additional objections the Government has?

1           **MS. BRUSCA:** No, Your Honor.

2           **THE COURT:** From the Defense?

3           **MS. WHALEN:** No, Your Honor.

4           **THE COURT:** So with that, I would ordinarily dismiss  
5 the alternate jurors, and then we would swear the bailiff and  
6 proceed. I am inclined, in the abundance of caution with  
7 respect to the situation with COVID and people not feeling  
8 well and precautions, I think the safest procedure here would  
9 be to tell them that I want all of them to come back,  
10 including the alternate jurors. And then at that point in  
11 time, I will dismiss the alternate jurors and Mr. Gurevich  
12 will then swear the bailiff, and then they'll be sent in to  
13 deliberate.

14           I think this precaution should be taken just in light of  
15 the number of people in the court system that lately have been  
16 testing positive where people aren't feeling well and test  
17 themselves, and suddenly it causes too much chaos.

18           Does the Government have any objection to that?

19           **MS. BRUSCA:** No, Your Honor.

20           **THE COURT:** Any objection from the Defense?

21           **MS. WHALEN:** No, Your Honor.

22           **THE COURT:** All right. And I think perhaps -- I  
23 think it might be advisable that I just indicate the reasoning  
24 for that in terms of precautions we're all taking as to the  
25 COVID and we'll have everyone come back, including the

1 alternates, and we'll tell them we want to have them all back  
2 in the jury room so I can bring them into the courtroom at  
3 9:30 promptly, and then they'll start with deliberations.

4 Unless there is anything further, Mr. Gurevich if you'll  
5 have the jury come back in.

6 I think over the next hour, I'll give everyone time to  
7 get the exhibits together, double check things and go from  
8 there.

9 **THE CLERK:** All rise for the jury.

10 (Jury enters courtroom 4:00 p.m.)

11 **THE COURT:** Thank you all very much. Ladies and  
12 gentlemen, what we're going to do now is you will -- everyone  
13 may be seated, you all are going to be excused for the day,  
14 and you all are going to come back, including the three  
15 alternates. Very likely the three alternates are going to be  
16 dismissed in the morning, but I think in the abundance of  
17 caution, because of precautions we take here with the COVID-19  
18 pandemic, I think it's a wisest thing after a two and a half  
19 week trial to make sure everyone gets back here in case  
20 someone is not feeling well, and just whatever we move along  
21 here, and then the alternate jurors will be dismissed, and  
22 then you'll be sworn and you can begin your deliberations.

23 So that's what we're going to do, everyone has to come  
24 back, all 12 jurors, all three alternates, we'll have lunch  
25 menus, Mr. Gurevich with respect to the 12 jurors, and

1 assuming everyone is back and alternates will get certificates  
2 of appreciation that I have to sign, and I hate to  
3 inconvenience everyone, but it's just -- it's the safest thing  
4 to do here in terms of this case, obviously, the great  
5 importance of this case and the precautions we're taking here  
6 in light of the COVID-19 pandemic.

7 So with that, I've got to stay on the bench for just a  
8 few more minutes with everyone. With that, you're excused.  
9 Please get here promptly between 9:00 and 9:30. We're going  
10 to try to get started right out of the gate at 9:30 and have  
11 all of the Exhibits ready for you, and all 12 jurors will have  
12 a copy of all of the instructions that I just read to you, as  
13 well as a copy of the verdict sheet. And ma'am foreperson,  
14 you will have -- you will then begin to conduct the meeting.

15 So with that, thank you all very much, and you all are  
16 excused.

17 (Jury exits courtroom 4:02 p.m.)

18 **THE COURT:** Okay. From that point of view, let me  
19 just say competent counsel and how hard you all have worked,  
20 it's been a very hard two and a half weeks. So I'm going to  
21 compliment all of the lawyers in this case, you've all worked  
22 very hard from both the Defense side and the Government side,  
23 and you deserve a lot of credit. There's been a lot of hours  
24 and I thank the agents on this case for their hard work,  
25 there's been a lot of time spent on this over the last two and

1 a half, three, four weeks even getting ready. So I compliment  
2 all of you for your professionalism and your hard work.

3 Is there anything further from the ponit of view of the  
4 Government before we adjourn for the evening, Ms. Brusca?

5 **MS. BRUSCA:** No, Your Honor. Thank you.

6 **THE COURT:** Then I'll see everyone tomorrow back  
7 here. And from the point of view from the Defense, anything  
8 further from the point of view of the Defense?

9 **MS. WHALEN:** I just have a question. Does Your  
10 Honor wish for the attorneys to be in the courtroom when the  
11 jury goes out?

12 **THE COURT:** Yes, I want everybody to be back here.  
13 I want all of the attorneys back here. I want -- it should be  
14 very clear, all of the attorneys are back, Defendant's back,  
15 we're just right where we are right now, we're back here and  
16 we'll start at 9:30.

17 Yes, Mr. Purpura.

18 **MR. PURPURA:** Your Honor, it was our intent at this  
19 point, it's really not necessarily for two counsel, but I  
20 could be available by phone only.

21 **THE COURT:** I think -- I think in light of the  
22 crossing T's and dotting I's on this, I prefer you to be here,  
23 Mr. Purpura, I really would. I'd like you to be here at 9:30  
24 tomorrow morning. So everyone is back here at 9:30.

25 Okay. With that, this Court stands at adjourned for the

1 day. Thank you all very much.

2 **THE CLERK:** All rise. Court stands adjourned.

3 (Court adjourned at 4:03 p.m.)

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## K E Y

K. = Kester  
K.B. = Kester Brown  
K.B., III = Kester Brown, III

REPORTER NOTE: Quotation marks are used for clarity and do not necessarily reflect a direct quote.

I, Melissa L. Clark, RPR, do hereby certify that the foregoing is a correct transcript from the stenographic record of proceedings in the above-entitled matter.

\_\_\_\_\_/S/\_\_\_\_\_  
Melissa L. Clark  
Official Court Reporter

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